

**U.S. Office of Personnel Management  
Compensation Claim Decision  
Under section 3702 of title 31, United States Code**

**Claimant:** [name]

**Organization:** [agency component]  
Department of Energy  
Washington, DC

**Claim:** Locality rate during detail

**Agency decision:** N/A

**OPM decision:** Denied; Lack of jurisdiction

**OPM decision number:** 10-0031

//Judith A. Davis for

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Robert D. Hendler  
Classification and Pay Claims  
Program Manager  
Merit System Audit and Compliance

3/16/10

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Date

On April 22, 2010, the U.S. Office of Personnel Management's (OPM) Merit System Audit and Compliance received a compensation claim from [claimant] relating to her detail from her [position] with the [agency component], Department of Energy (DOE), in Washington, DC, to a set of unclassified duties as a Resource Analyst with DOE's Office of the Chief Information Office in Las Vegas, Nevada. The claimant seeks to receive Washington, DC locality pay instead of Las Vegas, Nevada, locality pay during the period of her successive details processed in 120 day increments from May 26, 2008, through February 2, 2009. We received additional information from the agency human resources office on January 6, 2011. For the reasons discussed herein, the claim is denied.

OPM has authority to adjudicate compensation and leave claims for Federal employees under the provisions of section 3702(a)(2) of title 31, United States Code (U.S.C.). OPM's adjudication authority is an administrative remedy not a judicial remedy. *See* 5 CFR part 178. Section 7121(a)(1) of title 5, United States Code, directs that except as provided elsewhere in the statute, the grievance procedures in a negotiated collective bargaining agreement (CBA) shall be the exclusive administrative remedy for resolving matters that fall within the coverage of the CBA. The Court of Appeals for the Federal Circuit has found the plain language of 5 U.S.C. 7121(a)(1) to be clear, and as such, limits the administrative resolution of a Federal employee's grievances to the negotiated procedures set forth in the CBA. *Mudge v. United States*, 308 F.3d 1220, 1228 (Fed. Cir. 2002). Further, the Federal Circuit also found that all matters not specifically excluded from the grievance process by the CBA fall within the coverage of the CBA. *Id. at 1231*. As such, OPM cannot assert jurisdiction over the compensation or leave claims of Federal employees who are or were subject to a negotiated grievance procedure (NGP) under a CBA between the employee's agency and labor union for any time during the claim period, unless the matter is or was specifically excluded from the CBA's NGP. *See* 5 CFR 178.101(b).

Section 3341 of title 5, United States Code, as implemented by subpart C of part 300 of title 5, Code of Federal Regulations, authorizes agencies to detail their employees. OPM's Guide to Processing Personnel Actions, Chapter 14.2.f. Detail. states:

A detail is a temporary assignment to a different position for a specified period when the employee is expected to return to his or her regular duties at the end of the assignment. (An employee who is on detail is considered for pay and strength count purposes to be permanently occupying his or her regular position.) Unless the agency chooses to use a Standard Form 50 (Notification of Personnel Action), a detail, other than a detail under Rule 1 of Table 14-A, is documented with a Standard Form 52, Request for Personnel Action.

The Notification of Personnel Actions, Standard Form 50s, provided by the claimant show that she retained her bargaining unit status while on detail.<sup>1</sup> The CBA between the Department of Energy and the National Treasury Employees Union (NTEU), covering the claimant and in effect during the period of the claim does not specifically exclude compensation or detail issues from

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<sup>1</sup> Block 37, Bargaining Unit Status, shows her coverage as 0020. According to OPM's Guide to Processing Personnel Actions the code "0020" designates that the claimant occupies a bargaining unit position.

the NGP (Article 11). Therefore, this locality pay claim must be construed as covered by the NGP the claimant was subject to during the claim period and OPM has no jurisdiction to adjudicate this claim.

This settlement is final. No further administrative review is available within OPM. Nothing in this settlement limits the claimant's right to bring an action in an appropriate United States court.