

Leave Claim Decision
Under section 3702 of title 31, United States Code

Claimant: [name]

Organization: [agency component]
Department of the Air Force
[installation & State]

Claim: Restoration of 143 hours of annual
leave

Agency decision: N/A

OPM decision: Denied; Lack of jurisdiction

OPM file number: 10-0041

//Judith A. Davis for

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

10/7/10

Date

The claimant, employed in a Work/Life Consultant, GS-101-11, position in the [agency component], Department of the Air Force, at [installation & State], seeks restoration of 143 hours of annual leave. The U.S. Office of Personnel Management (OPM) received his claim on June 24, 2010, and additional information from his agency on July 9, 2010. For the reasons discussed herein, the claim is denied.

Although OPM has the authority to adjudicate leave claims for many Federal employees, OPM cannot take jurisdiction over compensation claims of Federal employees that are or were subject to a negotiated grievance procedure (NGP) under a collective bargaining agreement (CBA) between the employee's agency and labor union for any time during the claim period, unless that matter is or was specifically excluded from the agreement's NGP. The Federal courts have found Congress intended such a grievance procedure to be the exclusive administrative remedy for matters not excluded from the grievance process. *Carter v. Gibbs*, 909 F.2d 1452 (Fed. Cir. 1990) (en banc), *cert. denied*, *Carter v. Goldberg*, 498 U.S. 811 (1990); *Mudge v. United States*, 308 F.3d 1220 (Fed. Cir. 2002). Section 7121 (a)(1) of 5 U.S.C. mandates the grievance procedures in negotiated CBAs be the exclusive administrative procedures for resolving matters covered by the agreements. *Accord, Paul D. Bills, et al.*, B-260475 (June 13, 1995); *Cecil E. Riggs, et al.*, 71 Comp. Gen. 374 (1992).

The record shows the claimant is in a bargaining unit position covered by a CBA between [installation] and the National Association of Independent Labor, Local [number]. The CBA's NGP (Article 44) covering the claimant does not specifically exclude leave issues. Therefore, the claimant's leave 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 OPM settlement of the claim is final. No further administrative review is available within OPM. Nothing in this settlement limits the employee's right to bring an action in an appropriate United States court.