

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

Claimant: [name]

Organization: [agency component]
United States Coast Guard
Department of Homeland Security
[city & State]

Claim: Reduced wages

Agency decision: N/A

OPM decision: Denied; Lack of jurisdiction

OPM file number: 11-0009

//Judith A. Davis for

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

3/1/2011

Date

On December 12, 2010, the U.S. Office of Personnel Management's (OPM) Merit System Audit and Compliance received a compensation claim from [claimant's] duly appointed representative relating to the claimant's employment in a Maintenance Mechanic, WG-5334-10, job with the United States Coast Guard (USCG), Department of Homeland Security (DHS), in [city & State]. We received additional information from USCG on January 11, 2011, needed to respond to the representative's request. 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).

The CBA between the USCG, [agency component], and the National Association of Government Employees (NAGE), Local [number]¹, covering the claimant during his employment with USCG, ISC-Boston, and in effect during the period of the claim does not specifically exclude compensation issues from the NGP (Article 14). Therefore, this 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.

¹ On October 18, 1999, the Federal Labor Relations Authority certified the unit's change in affiliation from NAGE to the American Federation of Government Employees. However, the NAGE CBA remains in effect.