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

Claimant: [name]

Organization: Department of Army

Wiesbaden, Germany

Claim: Living quarters allowance

Agency decision: Denied

OPM decision: Denied; Lack of jurisdiction

OPM file number: 13-0049

/s/ Judith A. Davis for

Robert D. Hendler Classification and Pay Claims Program Manager Agency Compliance and Evaluation Merit System Accountability and Compliance

10/24/13

Date

The claimant is a Federal civilian employee of the Department of the Army in Wiesbaden, Germany. He requests the U.S. Office of Personnel Management (OPM) grant him a one-year waiver to receive living quarters allowance (LQA). OPM received the claim request on July 22, 2013. For the reasons discussed herein, the claim is denied for lack of jurisdiction.

The claimant was appointed to a Federal service position on November 18, 2012, in Wiesbaden, Germany. On December 4, 2012, he received an email from a Human Resources Specialist at the Wiesbaden Civilian Personnel Advisory Center (CPAC) notifying him that he was eligible for LQA. On December 18 and 19, 2012, he submitted supporting documentation to the CPAC required to initiate the LQA payments, and resubmitted it on January 15, 2013, because the original submission could not be located. Subsequently, as a result of a Department of Defense (DoD) directed, DOD-wide LQA audit, the claimant was notified via email on January 24, 2013, that he was ineligible for LQA before his LQA grant had actually begun. Although DOD granted a waiver permitting certain employees whose LQA was being terminated as a result of the audit to continue receiving LQA for one year, the claimant was not included in this waiver as it was limited to employees currently receiving LQA.

The claimant requests the one-year waiver because:

... if my original requests to start my LQA (originally submitted to the Wiesbaden CPAC on 18 & 19 December 2012) would have been processed in a timely manner, I theoretically would have been receiving LQA, and would have been granted an automatic 1-year waiver to continue to receive LQA.

OPM adjudicates compensation claims for certain Federal employees under the authority of section 3702(a)(2) of title 31, United States Code (U.S.C.). The authority in 31 U.S.C. § 3702(a)(2) is narrow and limited. Section 3702 does not include the authority to waive provisions of the Department of State Standardized Regulations (DSSR), which determine LQA eligibility. The applicable regulation in this case, DSSR section 031.12c, authorizes the head of the employee's agency to waive eligibility requirements. Therefore, OPM does not consider the claimant's request for a waiver within the context of the claims adjudication function it performs under section 31 U.S.C. § 3702(a)(2). Thus, the claim is denied for lack of jurisdiction.

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.