

Date: January 30, 2006
Claimant: [name]
File Number: 05-0035
OPM Contact: Robert D. Hendler

The claimant was formerly employed in a [position] with the 15th Operations Weather Squadron at Scott Air Force Base, in Illinois. He requests that the U.S. Office of Personnel Management (OPM) direct his agency to pay him for 13 hours of overtime pay (one hour of overtime each day from November 19 to December 8, 2003, excluding December 5). For the reasons discussed herein, OPM does not have jurisdiction to adjudicate this claim.

OPM is responsible for reviewing and adjudicating all claims related to compensation and leave for civilian positions under the provisions of section 3702 of title 31, United States Code, and Fair Labor Standards Act (FLSA) overtime claims. However, OPM cannot take jurisdiction over the compensation or leave claims or FLSA overtime 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. (Emphasis added). The Federal courts have found that Congress intended that such grievance procedures are the exclusive administrative remedy for matters not excluded from the grievance process. *Carter v. Gibbs*, 909 F.2d 1452, 1454-55 (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 title 5, United States Code, mandates that 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).

During the claim period, the claimant occupied a position covered by a CBA between the National Association of Government Employees, Local R7-23, and Scott Air Force Base. Compensation and leave issues are not specifically excluded from the NGP covering the claimant. Therefore, for purposes of our jurisdiction concerning this claim, OPM must construe those issues as covered by the NGP. For OPM purposes, that such matters are not specifically excluded from the NGP is enough to remove this claim from OPM 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.