

Fair Labor Standards Act Decision
Under section 204(f) of title 29, United States Code

Claimant: [name]

Agency classification: Letter Carrier

Organization: Woosley Station
U.S. Postal Service (USPS)
Long Island City, New York

Claim: Wages adjusted, seniority and back wages due to starting at a lower rate

OPM decision: Denied; Lack of jurisdiction

OPM decision number: F-USPS-01

/s/

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

May 7, 2010

Date

As provided in section 551.708 of title 5, Code of Federal Regulations (CFR), this decision is binding on all administrative, certifying, payroll, disbursing, and accounting officials of agencies for which the U.S. Office of Personnel Management (OPM) administers the Fair Labor Standards Act (FLSA). The agency should identify all similarly situated current and, to the extent possible, former employees, and ensure that they are treated in a manner consistent with this decision. There is no right of further administrative appeal. This decision is subject to discretionary review only under conditions and time limits specified in 5 CFR 551.708. The claimant has the right to bring action in the appropriate Federal court if dissatisfied with the decision.

Decision sent to:

[name and address]

Introduction

On February 16, 2010, the OPM's component Merit System Audit and Compliance received a letter from [name] seeking to have his "present wages and annual adjusted plus [his] seniority and back wages that is owed based on the Post Office starting [him] at a lower rate." He is employed as a Letter Carrier at the Woosley Station in Long Island City, New York. The claimant seeks confidentiality and states he is contacting OPM because "even though [he is] part of a collective bargaining agreement there is no grievance procedure for [his] situation." In his April 3, 2010, email seeking status on the response to his letter, the claimant identifies his request as an "FLSA claim."

In reaching our FLSA decision, we have carefully reviewed all information furnished by the claimant.

Jurisdiction

OPM administers the FLSA claims program for certain Federal employees under the authority of section 204(f) of title 29, United States Code (U.S.C.). However, as stated in 29 U.S.C. § 204 (f), the:

Director of the Office of Personnel Management is authorized to administer the provisions of this chapter with respect to any individual employed by the United States (other than an individual employed in the Library of Congress, United States Postal Service, Postal Regulatory Commission, or the Tennessee Valley Authority).

Thus, Postal Service employees like the claimant are statutorily excluded from OPM's FLSA jurisdiction. Furthermore, OPM does not have any authority to investigate or settle claims made against an agency which has independent settlement authority under the law. The applicable law in this case, 39 U.S.C. § 2008(c), authorizes USPS to consider and settle all claims made against it. Therefore, OPM does not have the authority to consider or settle claims from current or former USPS employees or intervene in such matters.

Although we may not render a decision on this claim, we note the claimant's request for OPM action with regard to seniority and pay setting is misplaced. The FLSA provides for minimum wage, overtime pay, and child labor protections. It does not cover the setting of pay, seniority disputes, or the interpretation of union contracts.

Decision

The claim is denied due to lack of jurisdiction.