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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-209954

DATE: June 7, 1983

MATTER OF: Marjorie E. Olsen

DIGEST: The General Accounting Office has no jurisdiction to consider an employee's appeal from an adverse action taken by an agency. While this Office has jurisdiction to settle certain claims for backpay and leave credit, there is no jurisdiction to consider a claim for backpay and leave credit based upon an employee's removal when the employee's grievance based on that action was unsuccessful and when the employee's action before the Merit Systems Protection Board was dismissed for lack of jurisdiction in view of the employee's choice of the grievance procedure as a remedy.

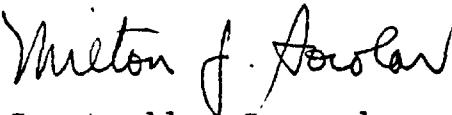
This action responds to an appeal of the determination of our Claims Group pertaining to the claim of Marjorie E. Olsen for backpay, retroactive credit for leave, and reinstatement to her position with the National Archives and Records Service. The determination of the Claims Group is sustained.

Mrs. Olsen was involuntarily separated as an employee of the National Archives and Records Service, General Services Administration, in July 1981. Contending that the Service improperly and illegally administered leave regulations in her case, Mrs. Olsen filed a grievance against the removal action under the appeals system of the agency's collective-bargaining agreement. After being informed that her grievance had been considered and denied and that the decision of the agency to remove her was sustained, she filed an appeal with the Merit Systems Protection Board. The Board has issued a final decision denying her petition for review based on a lack of jurisdiction. Marjorie E. Olsen v. General Services Administration, 82 FMSR-2094 (1982).

Mrs. Olsen expresses the view that neither the grievance arbitrator nor the Merit Systems Protection Board gave her case full and fair consideration. She, therefore, seeks redress of these matters through the General Accounting Office.

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While this Office has jurisdiction to consider certain claims pertaining to backpay and leave credit (31 U.S.C. § 3702 (1982), and 5 Code of Federal Regulations §§ 550.803, 550.805) an appeal from an agency action removing an employee from the civil service under the authority of the provisions of 5 U.S.C. §§ 7511-7514 is not within the jurisdiction of this Office. Where an adverse action is taken by an agency against an employee, that action may be appealed to the Merit Systems Protection Board or it may be appealed under a negotiated grievance procedure. 5 U.S.C. § 7121(e)(1). However, once the employee has filed a grievance under a collective-bargaining agreement, an appeal therefrom lies with the United States Claims Court or the United States Court of Appeals in the appropriate circuit. 5 U.S.C. § 7121(f); 5 U.S.C. § 7703(b)(1). Mrs. Olsen's claim stems from her removal from Federal employment, and the agency's action in removing her has not been determined by an appropriate authority to have been an unjustified or unwarranted personnel action under 5 U.S.C. § 5596. Thus, the claim presented is not for our consideration.

for 
Comptroller General
of the United States