

12678

PLM-1
ms. Blatch

DECISION



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

FILE: B-196764

DATE: January 30, 1980

MATTER OF: Glenn E. Chatfield - [Computation of Highest
Previous Rate]

DIGEST: The basic rate of pay of a Postal Service employee who transferred to FAA correctly excluded the cost of living adjustment received as a Postal employee. For purposes of the highest previous rate rule, a Postal Service cost of living adjustment becomes a part of an employee's "basic rate of pay" on the same date it becomes a part of the Postal employee's "basic salary." According to the terms of the 1978 National Agreement of the Postal Service, the cost of living adjustment paid in this case did not become a part of an employee's basic salary until November 4, 1978, and this employee transferred to FAA on August 27, 1978.

This action is in response to a request for a decision filed by Robert E. Meyer, Vice-President, Great Lakes Region, Professional Air Traffic Controllers Organization (PATCO), on behalf of Glenn E. Chatfield, an employee of the Federal Aviation Administration (FAA). Pursuant to 4 C.F.R. § 21.5, the FAA was served with a copy of PATCO's submission, but filed no response.

DLG0378
AGC00077
AGC00030
AGC00052

The submission by PATCO states that Mr. Chatfield transferred from the U.S. Postal Service to FAA on August 27, 1978. His salary at FAA was initially set at the GS-7, step 1 level, but was subsequently adjusted to GS-7, step 6, in conformance with the agency's decision to accord Mr. Chatfield the benefit of the highest previous rate rule authorized by 5 C.F.R. § 531.203(c) in accordance with 5 U.S.C. § 5334. The union questions the agency's decision to establish Mr. Chatfield's salary at the step 6 level. Specifically, PATCO questions the refusal of FAA to include the cost of living adjustment in the amount of \$1,518 per annum received by Mr. Chatfield as a Postal employee in computation of his basic rate of pay under the highest previous rate rule. The FAA did not include the cost of living adjustment on the ground that it was not part of basic pay.

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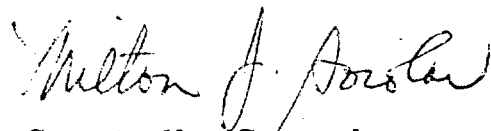
The date on which the \$1,518 cost of living adjustment received by Postal employees pursuant to the 1975 national collective bargaining agreement was to become a part of an employee's basic salary at the Postal Service was determined by Arbitrator James J. Healy in his award of September 15, 1978, which resolved the impasse reached on Articles VI and IX of the 1978 national agreement. Healy's award, which is incorporated into the 1978 agreement, provides as follows:

"Effective November 4, 1978, the current cost of living adjustment of \$1,518 per annum, with proportional application to hourly rate employees, will be added to basic annual salaries."

Thus, although employees had received the \$1,518 cost of living adjustment, it did not become a part of their basic salary until November 4, 1978. The cost of living adjustments provided for in the current Postal contract are similarly not considered a part of the basic salary during the term of the agreement. See Article IX, Sections 1 and 3 of the 1978 National Agreement, 81 Gov't. Empl. Rel. Rep. (BNA) 7006 [RF-173].

We have been informally advised by the Office of Personnel Management (OPM) which has the authority to issue regulations implementing 5 U.S.C. § 5334, that it treats the \$1,518 cost of living adjustment received by Postal employees in the manner provided for in the Postal Service collective bargaining agreement. That is, in determining the date on which a cost of living adjustment becomes a part of an employee's "basic rate of pay" for purposes of the highest previous rate rule, OPM uses the date the cost of living adjustment becomes a part of an employee's "basic salary" under the terms of the Postal Service collective bargaining agreement. 5 C.F.R. § 531.202(i) (1979).) LG00928

Since Mr. Chatfield transferred to FAA on August 27, 1978, and the \$1,518 cost of living adjustment did not become a part of a Postal employee's basic salary until November 4, 1978, FAA was correct in excluding this amount from his basic rate of pay. Therefore, assuming the action was otherwise consistent with applicable regulations, Mr. Chatfield's rate of pay was properly established at the GS-7, step 6, level.



For The Comptroller General
of the United States