



determined that the employee's hourly rate should have been established as a WS-11, step 1 (\$31.10 per hour). As a result, the employee's basic salary, overtime rate and holiday premium pay were miscalculated during the pay period ending (PPE) November 7, 2009, through October 23, 2010, causing an overpayment of \$2,296.86.<sup>1</sup>

Effective October 24, 2010, a *Notification of Personnel Action, SF-50*, was issued erroneously granting the employee a within-range increase (WRI) from a WG-11, step 3, to a WG-11, step 4. As a result, the employee's hourly salary was miscalculated from October 24, 2010, through April 9, 2011, causing him to be overpaid in the amount of \$1,282.24. Therefore, the employee was overpaid \$3,579.10 (\$2,296.86 + \$1,282.24).

In DOHA Claim No. 2012-WV-082808, the adjudicator waived \$2,296.86, the portion of the overpayment the employee received from PPE November 7, 2009, through October 23, 2010. However, the adjudicator denied waiver of \$1,282.24, the portion of the overpayment the employee received from October 24, 2010, through April 9, 2011. The adjudicator found that the employee should have at least questioned the WRI he received in October 2011. Since the employee failed to do so, the adjudicator held him partially at fault in the matter, which statutorily prohibits waiver of the claim.

In the employee's reconsideration request, he attaches new information in the form of a memorandum dated November 13, 2012, in support of his waiver request from his Human Resources Directorate (HRD). The memorandum explains that the employee received his last WRI on October 26, 2008, when he went from a WG-11, step 2 to a WG-11, step 3. His HRD explains that both the employee and his supervisor anticipated that he would receive his next WRI in October 2010, after 104 weeks. Therefore, his HRD notes that his October 24, 2010, WRI, was not an unexplained increase in pay.

## **Discussion**

Under 5 U.S.C. § 5584, we have the authority to waive collection of erroneous payments of pay and certain allowances made to specified federal employees, if collection of the claim would be against equity and good conscience and not in the best interests of the United States, provided there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the employee.

In this case, the adjudicator denied the portion of the overpayment occurring during the period October 24, 2010, through April 9, 2011, because the employee did not question his entitlement to the WRI. However, the employee has presented documentation reflecting that he and his supervisor were anticipating that he would receive his next WRI on October 24, 2010. Therefore, we waive an additional \$1,128.50, which represents the portion of the debt incurred by the employee during the period October 24, 2010, through March 12, 2011. However, the employee became aware he was being overpaid on April 7, 2011, when he was notified by his

---

<sup>1</sup> The record reflects that the employee was returned to a WG-11, step 3, effective February 23, 2012. However, his overtime rate and holiday premium pay continued to be miscalculated.

branch chief.<sup>2</sup> Therefore, it would not be against equity and good conscience to deny the portion of the overpayment the employee received during the period March 13, 2011, through April 9, 2011, in the amount of \$153.74.<sup>3</sup> See DOHA Claims Case No. 2011-WV-092706.2 (December 15, 2011) and DOHA Claims Case No. 2011-WV-030802.2 (August 24, 2011).

### **Conclusion**

For the reasons stated above, we hereby waive an additional \$1,128.50. In accordance with DoD Instruction 1340.23 ¶ E8.15, this is the final administrative action of the Department of Defense in this matter.

Signed: Jean E. Smallin

---

Jean E. Smallin  
Chairman, Claims Appeals Board

Signed: Catherine M. Engstrom

---

Catherine M. Engstrom  
Member, Claims Appeals Board

Signed: Natalie Lewis Bley

---

Natalie Lewis Bley  
Member, Claims Appeals Board

---

<sup>2</sup> On his *Waiver/Remission of Indebtedness Application*, DD Form 2789, the employee acknowledges that he was advised by his branch chief he was overpaid on April 7, 2011.

<sup>3</sup> The employee received his pay for PPE March 26, 2011, on April 7, 2011.