

The Limits of the Tucker Act

In June 2008, Plaintiff, Lee Dawson, was employed by the United States Department of Veteran's Affairs as a full-time intern under the Student Educational Employment Program. As a full-time employee, Dawson earned leave benefits (sick and annual leave) as well as health care and other federal insurance benefits. On January 14, 2009, Dawson signed a form converting his employment status to that of a part-time, intermittent employee. As a result of that change in employment status, Dawson lost his health and leave benefits.

Dawson continued to work for the VA as a full time but intermittent employee until January 2013. Then in April 2013, he and 300 other similarly situated individuals, filed suit in the U.S. Court of Federal Claims seeking back pay for benefits they claimed they were entitled to but were not paid because of their status as intermittent employees. Dawson also claimed that his change from full-time to intermittent status was bogus because the agency did not explain the consequences of his status change.

The Government moved to dismiss for lack of subject matter jurisdiction. The Government argued that the gist of Dawson's complaint was outside the scope of the Tucker Act: "Plaintiff's real argument is thus that the court should strike VA Form 3497 from plaintiff's personnel files on the ground that it is illegal or coerced."

The trial court agreed it lacked jurisdiction over these claims, stating "[t]his court does not, at least insofar as this case is concerned, have the type of general equitable powers necessary to declare a personnel action illegal." Later in the decision, the court further stated: "The Tucker Act explicitly excludes causes of actions sounding in tort from its waiver of sovereign immunity. . . Thus, we do not have jurisdiction to enter plaintiff's claims of fraud."

Read the full decision [here](#).