

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARK CLAYTON and U.S. POSTAL SERVICE,
POST OFFICE, Atlantic City, NJ

*Docket No. 99-1146; Submitted on the Record;
Issued September 19, 2000*

DECISION and ORDER

Before MICHAEL E. GROOM, A. PETER KANJORSKI,
VALERIE D. EVANS-HARRELL

The issues are: (1) whether the Office of Workers' Compensation Programs properly determined that appellant received overpayments in the amounts of \$859.03 and \$5,235.84; (2) whether the Office properly denied waiver of the overpayment in the amount of \$859.03 created when the Office was reimbursed an improper amount from a third-party settlement; and (3) whether the Office properly determined that appellant was at fault in an overpayment in the amount of \$5,235.84 due to a surplus in a third-party recovery to which benefits were to be offset and that, therefore, the overpayment was not subject to waiver.

The Board has given careful consideration to the issues involved, the contentions of appellant on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office dated November 27, 1998 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.

The decision of the Office of Workers' Compensation Programs dated November 27, 1998 is hereby affirmed.

Dated, Washington, DC
September 19, 2000

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member