

**United States Department of Labor
Employees' Compensation Appeals Board**

G.K., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Dumont, NJ Employer**

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**Docket No. 13-382
Issued: May 22, 2013**

Appearances:

*James Muirhead, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

ORDER REMANDING CASE

Before:

RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge

On December 6, 2012 appellant, through his attorney, filed an application for review of an August 8, 2012 nonmerit decision of the Office of Workers' Compensation Programs (OWCP) which denied his request for reconsideration from an April 27, 2012 OWCP decision.¹

On December 31, 2012 the Clerk of the Board served the Director of OWCP with a copy of the application for review and requested the Director to transmit the case records in OWCP File No. xxxxxx123. On January 9, 2013 the Director forwarded the case record to the Board, which consisted of 39 imaged documents in File No. xxxxxx123.

The Board, having reviewed the case record submitted by OWCP, notes that the record is incomplete. A review of the case record reveals that a hearing was held by teleconference on September 26, 2011; however, the transcript from that hearing is missing from the record before the Board. The Board notes that an OWCP hearing representative subsequently issued a December 2, 2011 decision that referred to testimony from the hearing. As the record before the Board is incomplete and would not permit an informed adjudication of the case by the Board, the Board concludes that the case is not in posture for a decision and must be remanded to OWCP

¹ The April 27, 2012 decision denied modification of a December 2, 2011 hearing representative's decision.

for reconstruction and proper assemblage of the case record, to be followed by an appropriate decision on appellant's request for reconsideration.

For this reason, the case will be remanded to OWCP to enable it to properly consider all the evidence submitted at the time of the August 8, 2012 decision. Following such further development as OWCP deems necessary, it shall issue an appropriate decision on the claim.

IT IS HEREBY ORDERED THAT the August 8, 2012 decision of the Office of Workers' Compensation Programs is set aside. The case recorded is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: May 22, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board