

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RONALD E. BUSTER and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER, North Little Rock, AR

*Docket No. 00-840; Submitted on the Record;  
Issued November 2, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether the Branch of Hearings and Review properly denied appellant's request for a hearing.

This case has been before the Board previously. By decision dated June 5, 1998, the Board found that the Office properly terminated appellant's compensation on the grounds that he neglected suitable work. The Board further found that, as the Office properly terminated appellant's compensation because he abandoned suitable employment and continued to receive compensation, the Office properly found that an overpayment in compensation in the amount of \$46,884.11 was created and granted waiver of the overpayment.<sup>1</sup> The law and facts as set forth in the previous Board decision and order is incorporated herein by reference.

Subsequent to the Board's June 5, 1998 decision, by letter dated January 17, 1999 appellant expressed his disagreement with the Board's decision and requested a hearing before the Branch of Hearings and Review of the Office. By decision dated March 31, 1999, an Office hearing representative denied appellant's request for a hearing, noting that Board decisions are final and, therefore, the Branch of Hearings and Review did not have jurisdiction to review the June 5, 1998 Board decision. The hearing representative further noted that he had considered the matter in relation to the issue involved and indicated that appellant's request was further denied on the basis that the issue could be addressed through a reconsideration application. This decision was returned to the Office by the post office as undeliverable. On August 24, 1999 appellant mailed a change of address to the Office. This was stamped received on August 30, 1999. On August 31, 1999 he faxed a change of address to the Office. On September 1, 1999 the Office reissued the March 31, 1999 decision denying appellant's request for a hearing. The instant appeal follows.

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<sup>1</sup> Docket No. 95-2432.

The Board finds that the Office's Branch and Hearings and Review properly denied appellant's request for a hearing, as the case is not in posture for a hearing.

By decision dated September 1, 1999, the Office denied appellant's hearing request. In a case such as this where appellant has requested a hearing before the Office regarding his disagreement with a Board decision, section 8149 of the Federal Employees' Compensation Act provides that decisions of the Board are final.<sup>2</sup> Thus, the Office does not have jurisdiction to review decisions by the Board.<sup>3</sup> Absent a reviewable decision, this case was not in posture for a hearing.<sup>4</sup>

The decision of the Office of Workers' Compensation Programs dated September 1, 1999 is hereby affirmed.

Dated, Washington, DC  
November 2, 2001

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member

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<sup>2</sup> 5 U.S.C. § 8149; *see Albert Zerega*, 45 ECAB 860 (1994).

<sup>3</sup> The Board notes that appellant may, as he was advised by the Office's Branch of Hearings and Review, request reconsideration pursuant to 5 U.S.C. § 8128(a) with regard to the issue of whether the Office properly terminated appellant's compensation on the ground that he abandoned suitable work.

<sup>4</sup> *Eileen A. Nelson*, 46 ECAB 377 (1994).