

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JANMARIE K. BRANHAM and U.S. POSTAL SERVICE,  
POST OFFICE, Bend OR

*Docket No. 00-1752; Submitted on the Record;  
Issued October 10, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly reduced appellant's compensation to reflect her wage-earning capacity based on actual earnings.

In a prior appeal, the Board remanded the case on the issues of pay rate and wage-earning capacity, finding that the Office had not made appropriate calculations based on the evidence of record.<sup>1</sup> By decision dated March 31, 2000, the Office determined that her actual wages commencing December 16, 1996 fairly and reasonably represented her wage-earning capacity. The Office included a computation of wage-earning capacity Form EN1047 that reported a weekly pay rate of \$286.38, and a loss of wage-earning capacity per week of \$20.05.

The Board finds that the case is not in posture for decision as the Office has failed to adequately explain the wage-earning capacity calculations in the March 31, 2000 decision.

In the prior appeal, the Board explained in some detail that, based on the evidence of record, the pay rate for compensation purposes should be determined under 5 U.S.C. § 8114(d)(3). This section is also applied in determining the "current" pay rate for the date-of-injury position held. In the March 31, 2000 decision, it appears that the Office attempted to apply 8114(d)(3), but the decision offers no specific explanation as to how the figures were calculated. For example, appellant's weekly pay rate for compensation purposes is reported as \$286.38. It appears that this figure was calculated by multiplying 8 hours by \$12.41, for an average daily wage of \$99.28. This is multiplied by 150 and then divided by 52, resulting in \$286.38 per week. As the Board noted in its prior appeal, however, the record indicated that appellant worked two days a week at an average of 17.03 hours per week. This is more than 8 hours per day on average; if the Office believes that 8 hours per day is appropriate it must explain this conclusion and refer to evidence of record in support. The Board also notes that the Office did not clearly explain how the "current" pay rate for the date-of-injury job was

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<sup>1</sup> Docket No. 97-2703, issued January 12, 2000.

calculated. In a wage-earning capacity worksheet (Form CA-816) the current pay rate is initially reported as \$336.00. This number again reflects an 8-hour daily wage, based on \$14.56 per hour. A handwritten number of \$342.92 per week is found on the worksheet, and this was apparently used by the Office in their calculations. As noted by appellant, if a daily wage is calculated based on 8.5 hours at \$14.56 per hour, this would result in a current pay rate of \$357.00 under section 8114(d)(3). The Office does not explain how the \$342.92 figure was determined. It is well established that an Office decision must make findings in sufficient detail so that the claimant can understand the reasoning behind the decision.<sup>2</sup>

The Board finds that the Office has not provided adequate findings for the wage-earning capacity determination in this case. On remand, the Office should issue an appropriate decision that clearly explains how the pay rate for compensation purposes, current pay rate, and other relevant numbers were calculated in this case.

The decision of the Office of Workers' Compensation Programs March 31, 2000 is set aside and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, DC  
October 10, 2001

David S. Gerson  
Member

Willie T.C. Thomas  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>2</sup> See *Beverly Dukes*, 46 ECAB 1014, 1018 (1995); 20 C.F.R. § 10.126 (providing that an Office decision "shall contain findings of fact and a statement of reasons").