

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

_____)	
J.H. (deceased), Appellant)	
)	
and)	Docket No. 11-1380
)	Issued: July 12, 2012
U.S. POSTAL SERVICE, POST OFFICE,)	
Carol Stream, IL, Employer)	
_____)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:

COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

On May 20, 2011 the employee's mother, Odell Harper, filed an appeal from a November 19, 2010 nonmerit decision of the Office of Workers' Compensation Programs (OWCP) finding that the employee abandoned his request for an oral hearing on October 21, 2010. The record indicates that the employee passed away on November 22, 2010. The Board docketed the appeal as No. 11-1380.

By letter dated December 5, 2011, the Clerk of the Board advised Ms. Harper that, before the Board could proceed with the appeal, she must first submit documentation from a court of appropriate probate jurisdiction indicating that she was authorized to represent the employee's estate. The Clerk of the Board advised that the appeal would be subject to dismissal if such documentation were not received.

By letter dated December 22, 2011, Ms. Harper stated that she had filed a petition for letters of administration with the court. She requested an extension to submit this documentation as the court date was not scheduled until January 11, 2012. With her request, Ms. Harper enclosed her petition for letters of administration to the court. Despite sufficient time having passed, the Board has not received any other documentation from a court of competent probate jurisdiction appointing Ms. Harper as the executrix of the employee's estate.

The Board has duly considered the matter and concludes that the appeal docketed as No. 11-1380 must be dismissed. Section 501.3(a) of the Board's *Rules of Procedure* requires that only a "person adversely affected by a final decision of [OWCP], or his duly authorized

representative, may file an application for review of such decision by the Board.”¹ The Board has also held that where a claimant dies while a case is pending before OWCP, the claim is not extinguished and his or her rights pass to the estate. Therefore, any appeal from an adverse decision of OWCP must be on behalf of the estate. In determining whether a person properly represents the interests of the employee’s estate, only a court of competent probate jurisdiction has the authority after the death of an employee to confer upon another person such legal status.²

A court of competent jurisdiction has not authorized Ms. Harper to represent the interests of the estate of the deceased employee. The Board has advised Ms. Harper that she must provide documentation from a court of appropriate probate jurisdiction that she properly represents the employee’s estate. The Board finds that Ms. Harper has been afforded a “reasonable opportunity”³ in which to submit information necessary for the processing of the appeal request. As no such evidence has been submitted demonstrating that a “person adversely affected” by a decision of OWCP or a “duly authorized representative” has filed an application for review in this case, there currently is no valid appeal before the Board. Accordingly, the appeal must be dismissed.

The Board’s decisions and orders are “final upon the expiration of 30 days from the date of their issuance.”

IT IS HEREBY ORDERED THAT the appeal docketed as No. 11-1380 be dismissed.

Issued: July 12, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees’ Compensation Appeals Board

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

Michael E. Groom, Alternate Judge
Employees’ Compensation Appeals Board

¹ 20 C.F.R. § 501.3(a).

² Mrs. *Hobart M. Byllesby*, 4 ECAB 667, 668 (1952).

³ See 20 C.F.R. § 501.3(c).