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

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**R.J.**, Appellant

and

## U.S. POSTAL SERVICE, POST OFFICE, Phoenix, AZ, Employer

Docket No. 12-174 Issued: June 25, 2012

*Appearances: John Eiler Goodwin, Esq.,* for the appellant *Office of Solicitor,* for the Director Case Submitted on the Record

## **ORDER REMANDING CASE**

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

On November 7, 2011 appellant, through his attorney, filed a timely appeal from a September 21, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP). The Board docketed the appeal as No. 12-174.

The Board has considered the matter and finds that OWCP's September 21, 2011 decision must be set aside. On appeal appellant's attorney contends that he did not receive a copy of the September 21, 2011 decision. By letter dated March 23, 2000, OWCP acknowledged John Eiler Goodwin, Esq., as appellant's authorized representative. In a decision dated September 21, 2011, OWCP denied appellant's claim for an increased schedule award. A copy of that decision was not sent to appellant's authorized representative.

OWCP's regulations and Board case law require OWCP to send a copy of its decision to the authorized representative.<sup>1</sup> The Board has held that a decision under the Federal Employees' Compensation Act<sup>2</sup> is not properly issued unless both appellant and the authorized representative

<sup>&</sup>lt;sup>1</sup> 20 C.F.R. § 10.127 provides, "A copy of the decision shall be mailed to the employee's last known address. If the employee has a designated representative before OWCP, a copy of the decision will also be mailed to the representative." *See also M.R.*, Docket No. 11-632 (issued September 28, 2011).

<sup>&</sup>lt;sup>2</sup> 5 U.S.C. § 8101 *et seq*.

have been sent copies of the decision.<sup>3</sup> As the September 21, 2011 decision was not sent to appellant's representative, the Board concludes that the decision was not properly issued. The Board will set aside the decision and remand the case for an appropriate and properly issued merit decision on the relevant issues. Accordingly,

**IT IS HEREBY ORDERED THAT** the September 21, 2011 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: June 25, 2012 Washington, DC

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

> Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board

> Michael E. Groom, Alternate Judge Employees' Compensation Appeals Board

<sup>&</sup>lt;sup>3</sup> See Travis L. Chambers, 55 ECAB 138 (2003).