United States Department of Labor Employees' Compensation Appeals Board

E.G., Appellant))
and) Docket No. 13-204
U.S. POSTAL SERVICE, POST OFFICE, New York, NY, Employer) Issued: April 12, 2013))
Appearances: Alan J. Shapiro, Esq., for the appellant Office of Solicitor, for the Director	Case Submitted on the Record

ORDER REMANDING CASE

Before:
RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On November 2, 2012 appellant, through counsel, filed an application for review of the Office of Workers' Compensation Programs' (OWCP) June 6 and October 3, 2012 merit decisions denying his traumatic injury claim. The appeal was docketed as No. 13-204. After considering the evidence of record, the Board finds this case is not in posture for a decision.

Appellant's August 7, 2008 occupational disease claim was accepted for bilateral medial meniscal tears in File No. xxxxxx570. His July 27, 2009 claim was accepted under File No. xxxxxx577 for traumatic arthropathy of both legs, bilateral medial and lateral meniscal tears. Appellant's October 5, 2010 claim for an occupational disease was accepted under File No. xxxxxx710 for bilateral lower leg localized primary osteoarthritis and bilateral osteochondritis dissecans. He returned to work in a limited-duty capacity on July 20, 2011 and worked on that date and July 21, 2011.

This appeal involves appellant's July 26, 2011 traumatic injury claim (File No. xxxxxx849), in which he alleged an exacerbation of his bilateral knee injuries when he returned to work on July 21 and 22, 2011. His claim was originally denied by decision dated September 9, 2011 finding that he had failed to establish that his medical condition was causally related to the accepted events. Appellant requested reconsideration.

In a decision dated June 6, 2012, OWCP denied modification of its September 9, 2011 decision. The claims examiner reviewed the medical evidence of record and referenced certain medical evidence contained in File No. xxxxxxx710, which included a functional capacity examination and second opinion examination pertaining to appellant's work capacity on the day he returned to work. In an October 3, 2012 decision, OWCP, in denying modification of its June 6, 2012 decision, discussed the history of appellant's previously accepted injuries, as well as the medical evidence of record in the instant case as it related to appellant's knee condition prior and subsequent to his return to work on July 21, 2011.

The Board finds that it is essential to review the medical evidence contained in File Nos. xxxxxx570, xxxxxx577 and xxxxxx710 in order to render a full and fair adjudication of the present appeal. Due to the overlapping nature of the claims, the evidence contained in those case records will necessarily bear directly on appellant's claim for compensation in File No. xxxxxx849. Without reviewing the case records in File Nos. xxxxxx570, xxxxxx577 and xxxxxx710, the Board is unable to determine whether OWCP properly considered all relevant evidence in rendering its final decision. Accordingly, this case will be remanded for OWCP to consolidate case File Nos. xxxxxxx849, xxxxxxx570, xxxxxxx577 and xxxxxxx710. Reconstruction of the record will be followed by a *de novo* decision on the merits of the claim, in order to protect appellant's appeal rights.

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' October 3 and June 6, 2012 decisions be set aside and the case remanded for further development consistent with this order of the Board.

Issued: April 12, 2013 Washington, DC

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

> Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board

> Patricia Howard Fitzgerald, Judge Employees' Compensation Appeals Board