United States Department of Labor Employees' Compensation Appeals Board

T.D., Appellant	-)
1.D., Appenant)
and) Docket No. 13-1597
) Issued: December 2, 2013
DEPARTMENT OF DEFENSE, DEFENSE)
FINANCE & ACCOUNTING SERVICE, Columbus, OH, Employer)
	_)
Appearances:	Case Submitted on the Record
Appellant, pro se	
Office of Solicitor, for the Director	

ORDER REMANDING CASE

Before:

COLLEEN DUFFY KIKO, Judge PATRICIA HOWARD FITZGERALD, Judge ALEC J. KOROMILAS, Alternate Judge

On April 8, 2013 appellant filed an appeal of a November 16, 2012 decision of the Office of Workers' Compensation Programs (OWCP). The appeal was docketed as No. 13-1597.

The November 16, 2012 decision is a schedule award for an additional one percent permanent impairment to the left arm. In a prior appeal, the Board had directed OWCP to issue a schedule award for an additional one percent based on the medical evidence of record. But the Board also specifically noted that OWCP had used the pay rate based on an April 23, 1993 date of injury, and the record required further development. As the Board had discussed with respect to an overpayment issue, the record indicated that there was also an October 27, 1995 injury, and OWCP had accepted a left thumb metacarpophalangeal joint surgery in 1996 as part of that claim. OWCP was directed to determine the pay rate on October 27, 1995, pursuant to 5 U.S.C. § 8114, and determine if it was greater than the April 23, 1993 pay rate.

On return of the case record, OWCP issued the November 16, 2012 schedule award decision using the April 23, 1993 pay rate without further development of the pay rate issue. The record indicated that both the April 23, 1993 and October 27, 1995 injuries were related to

¹ Docket No. 11-1952 (issued September 10, 2012).

the schedule award determination and no contrary findings were made. The case will be remanded to OWCP to properly resolve the pay rate issue in accord with the Board's September 10, 2012 decision. After such further development as OWCP deems necessary, it should issue an appropriate decision.

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 16, 2012 is set aside and the case remanded for further action consistent with this decision of the Board.

Issued: December 2, 2013 Washington, DC

Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge Employees' Compensation Appeals Board

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