

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

S.S., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
St. Paul, MN, Employer**

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**Docket No. 12-121
Issued: February 14, 2013**

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

Case Submitted on the Record

ORDER GRANTING MOTION TO REMAND

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge

On October 26, 2011 appellant filed a timely appeal of a September 27, 2011 Office of Workers' Compensation Programs' (OWCP) nonmerit decision. The Board docketed the appeal as No. 12-121. By its September 27, 2011 decision, OWCP denied appellant's request for a review of the written record as it was untimely filed.¹

Appellant's 2008 occupational disease claim was accepted by OWCP for a ventral hernia condition. He was authorized appropriate compensation benefits. In 2008, when appellant filed the claim, he listed his address as Anoka, MN. The claim was closed on June 21, 2010 at the request of the employing establishment. In January 2011, appellant submitted a CA-7, claim for a schedule award, listing an address in Urbandale, IA. OWCP mailed the March 16, 2011 decision denying the schedule award claim to appellant's address in Anoka, MN. By letter received on August 22, 2011, appellant requested a copy of the decision denying the schedule award and noted a change of address to Eagan, MN. On September 12, 2011 appellant requested a review of the written record from the March 16, 2011 decision. OWCP denied the request as untimely in a September 27, 2011 decision.

¹ Because more than 180 days had elapsed from the last merit decision dated March 16, 2011 to the filing of this appeal, the Board lacks jurisdiction to review the merits of the claim pursuant to 20 C.F.R. §§ 501.2(c) and 501.3.

The Board submitted a pleading to the Director of OWCP on November 2, 2012, requesting that he respond to outstanding questions regarding this case. By motion dated December 18, 2012, the Director requested that the case be remanded to OWCP. He noted that a decision was not deemed to have been issued under FECA unless appellant was sent a copy of the decision.² The Director also acknowledged that, under the facts and circumstances of this case, the March 16, 2011 decision was sent to an improper address and was not received by appellant; therefore, it was not properly issued.

The Board has duly considered the facts of this case and grants the Director's motion to remand. Following such further development as OWCP deems necessary, it shall issue an appropriate decision regarding appellant's claim for schedule award compensation.

IT IS HEREBY ORDERED THAT the September 27, 2011 decision of the Office of Workers' Compensation Programs is set aside; the case record is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: February 14, 2013
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

² See *Carolyn Mobley*, Docket No. 03-1411 (issued February 11, 2004); *Kathy B. Glauser*, Docket No. 97-2857 (issued June 4, 1999); *Tammy J. Kenow*, 44 ECAB 619 (1993).