

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT E. WHITE and U.S. POSTAL SERVICE,
POST OFFICE, Boynton Beach, Fla.

*Docket No. 97-1746; Submitted on the Record;
Issued April 1, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant was at fault in the creation of a \$1,006.54, and, therefore, not entitled to waiver of the overpayment.

On January 24, 1997 the Office issued a preliminary determination that appellant received an overpayment of compensation in the amount of \$1,006.54, which arose because he received compensation from August 16 to September 29, 1995, a period during which he was in leave status. The Office preliminarily found appellant at fault in the matter of the overpayment because he accepted a payment which he knew or should have known was incorrect.

By final decision dated March 28, 1997, the Office found that appellant received an overpayment of compensation in the amount of \$1,006.54 and that he was at fault in the matter of the overpayment. The Office noted that appellant did not disagree with the fact or amount of the overpayment or with the Office's determination of fault. The Office noted that appellant indicated that he had sent a cashier's check but it had not been received by the Office.¹

Appellant does not contest, nor does the record refute, that an overpayment in the amount of \$1,006.54 was created nor does he contest that he was at fault in the creation of the overpayment.² The issue presented is whether the appellant has repaid the amount of \$1,006.54.

With respect to recovery of the overpayment, the Board notes its jurisdiction on appeal is limited to reviewing those cases where the Office seeks recovery from continuing compensation

¹ The Board notes that the record contains a copy of a cashier's check dated December 8, 1995 in the amount of \$1,006.54 made payable to the Department of Labor.

² 5 U.S.C. § 8129; 20 C.F.R. § 10.320; *see Harold W. Steele*, 38 ECAB 245 (1986).

benefits under the Federal Employees' Compensation Act.³ As appellant is no longer receiving wage-loss compensation benefits, the Board does not have jurisdiction with respect to the Office's recovery of the overpayment under the Debt Recovery Act.⁴

The decision of the Office of Workers' Compensation Programs March 28, 1997 is hereby affirmed.

Dated, Washington, D.C.
April 1, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom
Alternate Member

³ *Lewis George*, 45 ECAB 144 (1993).

⁴ *Levon H. Knight*, 40 ECAB 658 (1989).