

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RALPH ECKERT and DEPARTMENT OF THE TREASURY,
CUSTOMS SERVICE, Nogales, AZ

*Docket No. 98-503; Submitted on the Record;
Issued December 21, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant received an overpayment of compensation in the amount of \$1,860.57.

The Office of Workers' Compensation Programs accepted that appellant's October 12, 1990 employment injury resulted in a tear of the right medial meniscus and in right prepatellar bursitis. The Office paid appellant compensation for temporary total disability beginning March 24, 1991, reduced compensation for loss of wage-earning capacity effective July 24, 1994.

On May 22, 1995 the Office advised appellant that he had received an overpayment of compensation in the amount of \$2,760.96 which arose because deductions were not made for basic and postretirement life insurance from March 24, 1991 to April 1, 1995. By letter dated May 31, 1995, appellant requested an explanation of the amount of the overpayment. On October 2, 1995 the Office informed appellant that the amount of the overpayment was \$760.76, the amount of the premiums for basic and postretirement life insurance from May 29, 1994 to April 1, 1995. Appellant submitted a check in the amount of \$760.76.

On June 3, 1996 the Office issued a preliminary determination that appellant had received an overpayment in the amount of \$1,860.57 which arose because premiums in the amount of \$2,621.33 for basic and postretirement life insurance were not deducted from his compensation payments for the period March 24, 1992 to April 1, 1995. From the amount of premiums not paid the Office subtracted the \$760.76 appellant submitted to repay the overpayment resulting from the failure to deduct premiums for life insurance from May 28, 1994 to April 1, 1995. The Office also preliminarily found that appellant was without fault in the matter of the overpayment, and requested that he submit financial information to permit a determination whether collection of the overpayment should be waived.

By letter dated June 21, 1996, appellant conceded that repayment of the overpayment would not cause a severe financial hardship. He disputed the amount of the overpayment, contending that the premiums for his postretirement life insurance for the period January 1, 1993 to April 1, 1995 should have been \$1,414.53 rather than the \$1,728.41 determined by the Office. Appellant's calculation was based on a premium rate of \$12.09 per week and the Office's calculation for this period was based on a premium rate of \$14.73 per week. His calculations for postretirement premiums from March 24 to December 31, 1992 and for basic life insurance premiums from March 24, 1992 to April 1, 1995 were identical to those computed by the Office, taking into account a mathematical error in appellant's calculation of the postretirement premiums during 1992. Appellant also contended that he was overcharged for optional life insurance at least from January 1, 1993 to April 1, 1995 and possibly since March 24, 1992.

By final decision dated November 10, 1997, the Office found that appellant received an overpayment of compensation in the amount of \$1,860.57 which arose because premiums for postretirement and basic life insurance were not deducted from his compensation payments from March 24, 1992 to April 1, 1995. In this decision, the Office stated, "With respect to your contentions regarding the premium rates themselves, those are established by OPM [the Office of Personnel Management] and I will be referring the matter to them for comment."

The Board finds that the case is not in posture for a decision on the amount of appellant's overpayment of compensation.

Appellant does not dispute that an overpayment of compensation occurred because deductions for premiums for postretirement and basic life insurance were not made during the period March 24, 1992 to April 1, 1995. He does dispute the amount of the overpayment, in particular the amount the Office claimed was due for postretirement life insurance premiums from January 1, 1993 to April 1, 1995. The case record, however, does not provide enough information for the Board to determine whether the Office's determination of \$14.73 per week or appellant's calculation of \$12.09 per week is correct for this period. The case record also does not contain enough information for the Board to determine whether there is any validity to appellant's contention that the Office overdeducted premiums for optional life insurance from March 24, 1992 to April 1, 1995, as the case record does not show what these premiums should be. The case will be remanded to the Office to obtain information on the disputed premiums from OPM, which administers the Federal Employees' Group Life Insurance program. The Office should then issue an appropriate decision on the amount of the overpayment of compensation.

The decision of the Office of Workers' Compensation Programs dated November 10, 1997 is set aside and the case remanded to the Office for further action consistent with this decision of the Board.

Dated, Washington, D.C.
December 21, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member