

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONALD M. MALOYED and U.S. POSTAL SERVICE,
POST OFFICE, Leesville, LA

*Docket No. 02-1669; Submitted on the Record;
Issued November 13, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant abandoned his request for a hearing before a hearing representative of the Office of Workers' Compensation Programs.

In a decision dated April 9, 2001, the Office denied appellant's claim on the grounds that the evidence failed to establish that the condition for which he claimed compensation was causally related to the employment incident of December 1, 2000.

On April 17, 2001 appellant requested a hearing before an Office hearing representative.

On January 31, 2002 the Office notified appellant that a hearing was scheduled for March 13, 2002 at the U.S. Courthouse in Shreveport, Louisiana.

In a decision dated April 10, 2002, the hearing representative found that appellant abandoned his request for a hearing. Appellant received notice 30 days in advance but did not appear. He did not contact the Office prior to the hearing or within 10 days after the hearing to explain his failure to appear.

The Board finds that appellant abandoned his request for a hearing before an Office hearing representative.

The claimant may withdraw the request for a hearing at any time prior to the hearing by written notice, or on the record at the hearing. A request for postponement of a scheduled hearing must be in writing, must be received (as determined by the date stamp) by the Branch of Hearings and Review at least three days prior to the date of the scheduled hearing, and must show good cause for postponement.¹

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Hearings and Reviews of the Written Record*, Chapter 2.1601.6.d (January 1999).

A claimant who fails to appear at a scheduled hearing may request in writing within 10 days after the date set for the hearing (as determined by the postmark) that another hearing be scheduled.

Where good cause for failure to appear is shown, another hearing will be scheduled. The failure of the claimant to request another hearing within 10 days, or the failure of the claimant to appear at the second scheduled hearing without good cause shown, shall constitute abandonment of the request for a hearing.

In such cases, the Branch of Hearings and Review will issue a formal decision finding that the request for a hearing has been abandoned and return the case to the district Office.²

The evidence that was before the hearing representative at the time of the April 10, 2002 decision supports that appellant did not appear at the hearing that was scheduled for March 13, 2002, did not request a postponement at least three days prior to March 13, 2002 and did not request in writing within 10 days after March 13, 2002 that another hearing be scheduled. He therefore abandoned his request for a hearing.³

The April 10, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
November 13, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

² See *id.*, Chapter 2.1601.6.e.

³ The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its April 10, 2002 decision. 20 C.F.R. § 501.2(c). The Board may not consider the statements appellant submitted after that date.