

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

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<b>T.H., Appellant</b>	)	
	)	
<b>and</b>	)	
	)	<b>Docket Nos. 10-2339, 10-2360</b>
	)	<b>&amp; 11-425</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	<b>Issued: September 28, 2011</b>
<b>Coppell, TX, Employer</b>	)	
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*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

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

On September 15, 2010 appellant filed appeals of Office of Workers' Compensation Programs' (OWCP) decisions, dated September 1<sup>1</sup> and 9, 2010,<sup>2</sup> denying two claims for benefits based on an emotional condition. She filed a third appeal on December 14, 2010 of an OWCP decision dated December 8, 2010.<sup>3</sup> For the reasons stated herein, the Board directs that these

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<sup>1</sup> OWCP claim number xxxxxx245.

<sup>2</sup> OWCP claim number xxxxxx665.

<sup>3</sup> OWCP claim number xxxxxx347. This is the second appeal before the Board of this claim. Appellant, then a 37-year-old postal supervisor, filed a claim for benefits on March 21, 2001, alleging that she injured her head, right hand and lower back and experienced anxiety when an employee pushed her and knocked her to the floor. OWCP accepted the claim for lumbar sprain/strain, neck sprain/strain, contusion of multiple sites and acute reaction to stress. Appellant filed a claim for a recurrence of disability as of April 15, 2004 causally related to her accepted psychological condition. By decisions dated December 15, 2004 and May 25, 2005, OWCP denied the claim. In a decision dated December 15, 2005, the Board affirmed these decisions. Docket No. 05-1767 (issued November 9, 2005).

claims be consolidated and remanded to OWCP for further factual finding of all allegations raised in these claims.<sup>4</sup>

Appellant filed a claim for an emotional condition on February 18, 2010, alleging that on August 23, 2007 she realized that her emotional distress was caused by her specially assigned duties and to the requirements imposed by the employing establishment. She presented several allegations of incidents which occurred between 2006 and 2007. Appellant also explained that her reaction to some of the incidents was aggravated by post-traumatic stress syndrome, related to her accepted March 21, 2001 claim. In the September 1, 2010 decision denying her claim, OWCP made some findings of fact relating to specific allegations, but also found that events on March 22 and April 4, 2007 occurred prior to the date of injury and could not be considered in the instant claim.

Similarly in OWCP's September 9, 2010 decision denying appellant's September 25, 2006 claim, OWCP found that events alleged as occurring between 2002 and 2004 occurred prior to the date of injury and could not be considered.

Section 20 C.F.R. § 10.126 requires OWCP to issue a decision containing findings of fact and a statement of reasons.<sup>5</sup> The Board finds that OWCP erred in its September 1 and 9, 2010 decisions by failing to discuss and analyze whether all of the alleged incidents referenced by appellant implicated compensable acts of employment. Occupational disease claims by definition pertain to a series of events occurring over the course of work shifts.<sup>6</sup> OWCP justification for not evaluating these allegations, that they occurred prior to the date of injury, was not proper. The Board therefore directs that the September 1 and 9, 2010 decisions be remanded to OWCP for further findings of fact.

On December 8, 2010 OWCP denied appellant's claim for wage-loss compensation from May 5, 2007 through September 10, 2010 pursuant to her accepted March 21, 2001 claim. The Board notes that several of appellant's allegations in her subsequent emotional condition claims pertain to alleged post-traumatic stress reactions related to the accepted claim. For purposes of judicial economy all of these cases should be consolidated. As OWCP has not made sufficient findings of fact related to acceptance of additional factors of employment, intertwined with the accepted claim, it is premature for the Board to adjudicate the issue raised in the December 8, 2010 decision.

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<sup>4</sup> This is the second appeal before the Board of this claim. Appellant, then a 37-year-old postal supervisor, filed a claim for benefits on March 21, 2001, alleging that she injured her head, right hand and lower back and experienced anxiety when an employee pushed her and knocked her to the floor. OWCP accepted the claim for lumbar sprain/strain, neck sprain/strain, contusion of multiple sites and acute reaction to stress. Appellant filed a claim for a recurrence of disability as of April 15, 2004 causally related to her accepted psychological condition. By decisions dated December 15, 2004 and May 25, 2005, OWCP denied the claim. In a decision dated December 15, 2005, the Board affirmed these decisions. Docket No. 05-1767 (issued November 9, 2005).

<sup>5</sup> 20 C.F.R. § 10.126.

<sup>6</sup> 20 C.F.R. § 10.5 (q).

Accordingly, the September 1 and 9, and December 8, 2010 decisions will be set aside. These cases will be consolidated. OWCP shall thereafter issue an appropriate decision, with findings of fact for each of appellant's allegations. After such further development as OWCP deems necessary, it should issue an appropriate decision to protect appellant's appeal rights.

**IT IS HEREBY ORDERED THAT** that the December 8, September 9 and 1, 2010 Office of Workers' Compensation Programs' decisions be set aside and this case be remanded for further development consistent with this decision.

Issued: September 28, 2011  
Washington, DC

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

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board