

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

D.B., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Minneapolis, MN, Employer**

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**Docket No. 11-1340
Issued: April 12, 2012**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
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 May 12, 2011 appellant filed an application requesting review of a December 16, 2010 decision of the Office of Workers' Compensation Programs (OWCP) which denied his claim for a recurrence of disability commencing April 27, 2009. The appeal was docketed as 11-1340.

On May 20, 2011 the Board served the Director of OWCP with a copy of the application for review and requested that the Director transmit the case record to the Board in accordance with the Board's *Rules of Procedure*.¹ On September 1, 2011 the Director submitted the case record to the Board, which consisted of 119 documents.

On January 26, 2012 the Board advised the Director that the case record transmitted to the Board was incomplete. The Board indicated that documents from OWCP indicated that the record consisted of an imaged portion and a paper portion but that the paper portion of the record

¹ 20 C.F.R. § 501.4(a). This provision provides that the Director shall transmit the record within 60 days of the date of service of a notice of appeal.

had not been forwarded to the Board. The Board requested that the paper portion of the record be transmitted to the Board. To date the missing portion of the record has not been received.²

The Board, having duly considered the matter, notes that OWCP did not submit the complete case record as requested. Consequently, the appeal docketed as 11-1340 is not in posture for a decision as the Board is unable to render a fully informed adjudication of the case. The Board, therefore, finds that the case must be remanded to OWCP for proper assemblage and reconstruction of the case record and an appropriate merit decision issued on appellant's claim in order to preserve his right to future appeals.

IT IS HEREBY ORDERED THAT the December 16, 2010 decision be set aside and the case remanded to the Office of Workers' Compensation Programs for further proceedings consistent with this order.

Issued: April 12, 2012
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

² Evidence in the record indicates that appellant's injury occurred on July 15, 1994. The record transmitted to the Board does not have any evidence from 1994 and consists primarily of evidence generated in 2006 and thereafter.