

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

A.R., Appellant)	
)	
and)	Docket No. 12-702
)	Issued: August 24, 2012
U.S. POSTAL SERVICE, POST OFFICE,)	
Honolulu, HI, Employer)	
)	

Appearances: *Case Submitted on the Record*
Appellant, pro se
Office of Solicitor, for the Director

ORDER REMANDING CASE

Before:
RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

Appellant filed, on February 16, 2012, an application for review of the Office of Workers' Compensation Programs' (OWCP) January 25, 2012 merit decision denying his traumatic injury claim. The appeal was docketed as No. 12-702. The Board finds that this case is not in posture for a decision.

In his May 25, 2011 traumatic injury claim (File No. xxxxxx282), appellant alleged that he sustained a lumbar injury while delivering mail on April 27, 2011 when he threw himself inside his truck to avoid being attacked by a dog. In a July 15, 2011 decision, OWCP initially denied his claim, finding that he had failed to establish the fact of injury. By decision dated January 25, 2012, an OWCP hearing representative accepted the factual component of the case, but affirmed the denial of the claim on the grounds that appellant had failed to establish a causal relationship between the accepted incident and his diagnosed back condition.

The record reflects that in January 2011, appellant underwent lumbar disc surgery, which was the subject of a prior claim, presumably his November 12, 2007 traumatic injury claim for a back sprain (File No. xxxxxx525).¹ In OWCP's July 15, 2011 decision, the claims examiner noted

¹ Other prior claims include a May 31, 2001 occupational disease claim (File No. xxxxxx786); a November 1, 2001 occupational disease claim (File No. xxxxxx787); a December 2, 2002 occupational disease claim (File No. xxxxxx814); and a December 30, 2009 occupational disease claim (File No. xxxxxx094). Appellant also filed a

that appellant's claimed injury occurred only six days after his previous claim for back surgery was denied.

Due to the overlapping nature of the claims and the fact that the same body part is at issue in both cases, the medical evidence contained in File No. xxxxxx525 will necessarily bear directly on appellant's claim for compensation in the instant case. Without reviewing the case record in File No. xxxxxx525, the Board is unable to determine whether OWCP properly considered all relevant evidence in rendering its final decision.

Because it is essential for the Board to review the medical evidence contained in File No. xxxxxx525 in order to render a full and fair adjudication of the present appeal, this case will be remanded for OWCP to consolidate case File No. xxxxxx525 with File No. xxxxxx282.² Reconstruction of the record will be followed by a *de novo* decision on the merits of the claim, in order to protect appellant's appeal rights.

IT IS HEREBY ORDERED THAT OWCP's January 25, 2012 decision be set aside and the case remanded for further development consistent with this order.

Issued: August 24, 2012
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

July 19, 2011 traumatic injury claim (File No. xxxxxx211). The allegations contained in these claims are not available to the Board.

² The Board is unable to determine whether appellant's remaining prior claims are related to a preexisting lumbar condition. On remand, OWCP should consider whether these prior claims are relevant to the instant claim and take appropriate action.