

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

L.J., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Indianapolis, IN, Employer**

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**Docket No. 12-1086
Issued: December 21, 2012**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

On April 23, 2012 appellant filed a timely appeal from a December 14, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his occupational disease claim, adjudicated under claim file number xxxxxx996. The Board assigned Docket No. 12-1086.

The Board has duly considered the matter and concludes that this case is not in posture for decision. OWCP procedures provide that cases should be doubled when a new injury is reported for an employee who previously filed an injury claim for the same part of the body or similar condition and further indicates that the cases should be doubled as soon as the need to do so becomes apparent.¹

The current claim involves degenerative disc disease as a result of appellant's employment duties. Appellant, then a 52-year-old mail handler, filed an occupational disease claim on May 12, 2010 alleging that his back and neck were due to his degenerative disc disease which was caused by his employment duties. He stated that he first became aware of this condition and its relationship to his work on October 1, 2004. In a decision dated September 13,

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Doubling Case Files*, Chapter 2.400.8(c)(1) (February 2000).

2010, OWCP denied appellant's claim on the grounds that it was untimely filed. Appellant timely requested an oral hearing by an OWCP hearing representative on September 21, 2010. By decision dated December 14, 2011, OWCP's hearing representative found appellant had timely filed his claim, but found the evidence insufficient to establish causal relationship. He noted that he had reviewed the evidence contained in file number xxxxxx829 and found it to be duplicative.

The record forwarded to the Board also includes evidence that appellant filed an occupational disease claim on April 5, 2011 alleging that his degenerative disc disease was due to pulling and pushing heavy equipment. OWCP denied this claim in a June 22, 2011 merit decision under file number xxxxxx829. The current record contains a copy of the April 5, 2011 claim form and the June 22, 2011 decision denying the claim

As both claims referenced above are for degenerative disc disease aggravated by employment duties, it is unclear whether the record before the Board, OWCP file number xxxxxx996, contains all the evidence that would be relevant to whether appellant's degenerative disc disease had been caused or aggravated by his employment duties under file number xxxxxx829. The Board is also unable to determine whether the evidence contained in file number xxxxxx829 is duplicative, as found by the hearing representative, because the record is not before the Board.

Hence, the Board finds that this case is not in posture for a decision as the record before the Board is incomplete and would not permit an informed adjudication of the case by the Board. The case must therefore be remanded to OWCP to obtain OWCP file number xxxxxx829 to be combined with the current case, OWCP file number xxxxxx996, and for further reconstruction and development as deemed necessary, to be followed by an appropriate decision.

IT IS HEREBY ORDERED THAT the December 14, 2011 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further proceedings consistent with this order of the Board.

Issued: December 21, 2012
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board