



beginning November 20, 2000 and earning a weekly salary of \$609.92.<sup>2</sup> It found that this position fairly and reasonably represented her wage-earning capacity with the reduction effective August 11, 2002.

To determine whether the employee's work fairly and reasonably represents her wage-earning capacity, OWCP should consider whether the tour of duty is at least equivalent to that of the job held on date of injury. Unless it is, OWCP may not consider the work suitable. Thus, reemployment may not be considered suitable when the job is part time, unless the claimant was a part-time worker at the time of injury.<sup>3</sup>

The Board having duly considered the matter concludes that OWCP failed to meet its burden of proof in reducing appellant's wage-loss compensation effective August 11, 2002. OWCP found appellant was working part time or 32 hours per week in the engineering technician position. It has administratively determined that part-time reemployment does not fairly and reasonably represent an employee's wage-earning capacity in the open labor market unless the claimant was a part-time worker at the time of injury.<sup>4</sup> At the time of her injury appellant was a full-time employee working 40 hours per week. OWCP failed to follow its procedures when it determined that appellant's part-time job working 32 hours per week fairly and reasonably represented her wage-earning capacity.

The Board finds that August 13, 2002 wage-earning capacity determination was, in fact, erroneous. Therefore, the Board will reverse OWCP's August 20, 2010 decision denying modification.

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<sup>2</sup> Appellant retired from the employing establishment effective January 3, 2005.

<sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reemployment: Determining Wage-Earning Capacity*, Chapter 2.814.7(a)(1) (October 2009). The U.S. Postal Service recognizes several types of tours of duty, depending on the kind of work performed. Craft employees such as letter carriers and mail clerks are full-time regular employees and work 40 hours per week. Part-time regular employees have a fixed schedule but work less than 40 hours per week. *Id.*, *Determining Pay Rates*, Chapter 2.900.3(b)(2) (March 2011).

<sup>4</sup> Federal (FECA) Procedure Manual, *supra* note 3. See *O.V.*, Docket No. 11-98 (issued September 30, 2011) (overruling *Price* to the extent of their finding that OWCP procedure allows consideration of part-time reemployment when the tour of duty is not at least equivalent to that of the job held on the date of injury).

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated August 20, 2010 is reversed.

Issued: January 9, 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