

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

B.R., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Oklahoma City, OK, Employer**

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**Docket No. 11-1196
Issued: January 12, 2012**

Appearances:
Nicole Carter, for 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

Appellant filed an application for review of the Office of Workers' Compensation Programs' (OWCP) March 2, 2011 merit decision denying his traumatic injury claim. The appeal was docketed as No. 11-1196. After considering the evidence of record, the Board finds this case is not in posture for a decision.

The present appeal involves appellant's January 6, 2011 traumatic injury claim (File No. xxxxxx610) in which he alleged that he experienced anxiety, depression and post-traumatic stress disorder as a result of a coworker's verbal threat on June 10, 2009.¹ Appellant stated that he continues to be disabled by the emotional condition that was accepted under a prior claim.

The record indicates that appellant filed a July 7, 2009 traumatic injury claim (File No. xxxxxx450), in which he alleged that he developed an emotional condition as a result of a threat on his life made by a coworker on June 6, 2009. OWCP accepted appellant's claim in File No. xxxxxx450 for post-traumatic stress disorder, panic disorder and generalized anxiety disorder. The record in the instant case, however, does not contain any evidence relating to the development of appellant's claim in File No. xxxxxx450.

¹ Appellant's initially filed an occupational disease claim, which OWCP treated as a claim for a traumatic injury.

In a decision dated March 2, 2011, OWCP denied appellant's claim on the grounds that his January 6, 2011 claim was a duplicate of File No. xxxxxx450. Noting that the instant claim alleged a verbal threat by a coworker on June 10, 2009, rather than June 6, 2009 as alleged in File No. xxxxxx450, OWCP stated that there was no evidence of record to indicate that appellant had experienced a new injury.

In its March 2, 2011 decision, OWCP denied appellant's claim in the instant case, finding that it was a duplicate of his claim in File No. xxxxxx450. In the same decision, however, the claims examiner acknowledged that appellant had identified a different date of injury as the cause of his claimed condition in File No. xxxxxx610. Therefore, while the claims may be substantially similar, they do not appear to be identical. Because it is essential for the Board to review the evidence contained in File No. xxxxxx450 in order to render a full and fair adjudication of the present appeal, this case will be remanded for OWCP to consolidate case files xxxxxx450 and xxxxxx610. 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.²

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' March 2, 2011 decision be set aside and the case remanded for further development consistent with this order.

Issued: January 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 On remand, OWCP should review the evidence in both case files to determine whether appellant's claim in File No. xxxxxx610 constitutes a claim for a new injury or a recurrence of disability under File No. xxxxxx450.