

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

L.G., Appellant

and

**U.S. POSTAL SERVICE, FORT DEARBORN
STATION, Chicago, IL, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 13-658
Issued: July 25, 2013**

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:

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

On January 28, 2013 appellant filed a timely appeal from a January 3, 2013 decision of the Office of Workers' Compensation Programs (OWCP) that denied her claim. The claim was docketed as No. 13-658.

The Board has duly considered the matter and finds that this case is not in posture for decision. Upon review of the case record submitted by OWCP, the Board finds that the record before it is incomplete.

On December 20, 2011 appellant, then a 54-year-old mail processing clerk, filed an occupational disease claim alleging that chemical exposure at work caused a burning sensation of the eyes and skin. She stated that she first became aware of the condition in January 2010 and its relationship to employment in February 2010.¹ After an initial denial on April 6, 2011, in a June 20, 2011 decision, an OWCP hearing representative remanded the case for OWCP to obtain additional information from the employing establishment regarding testing and investigation regarding chemical irritants in the workplace. By letter dated June 29, 2011, OWCP asked that the employing establishment provide a statement from a knowledgeable supervisor regarding appellant's claim and information regarding potentially harmful substances to which appellant

¹ Appellant submitted medical evidence diagnosing conjunctivitis and dermatitis.

was exposed, to include results of any testing done. In a September 18, 2011 decision, it indicated that, while the employing establishment did not respond to the June 29, 2011 letter, correspondence regarding alleged chemical exposure was found in OWCP file number xxxxxx808 which indicated that an investigation was done. On June 11, 2012 an OWCP hearing representative affirmed the September 16, 2011 decision, and in a merit decision dated January 3, 2013, OWCP denied modification of the prior decisions. The employing establishment did not respond at any time.

The correspondence from the employing establishment regarding chemical exposure, noted in the September 18, 2011 OWCP decision, is not found in the imaged case record forwarded to the Board. Hence the Board finds this case is not in posture for 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 the aforementioned correspondence from the employing establishment, found in OWCP file number xxxxxx808, and for further reconstruction and assemblage deemed necessary, to be followed by a *de novo* decision on the merits of appellant's claim that she was exposed to chemical irritants at work that caused conjunctivitis and skin rashes.

IT IS HEREBY ORDERED THAT the January 3, 2013 decision of the Office of Workers' Compensation Programs is set aside and the case remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: July 25, 2013
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