

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

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**W.S., Appellant**

**and**

**DEPARTMENT OF THE NAVY, PUGET  
SOUND NAVAL SHIPYARD, Bremerton, WA,  
Employer**

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**Docket No. 12-1502  
Issued: March 12, 2013**

*Appearances:*

*John Eiler Goodwin, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:

PATRICIA HOWARD FITZGERALD, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

On July 3, 2012 appellant, through his attorney, sought a timely appeal from a June 20, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). The Board assigned Docket No. 12-1502.

The Board has duly considered the matter and finds that OWCP's June 20, 2012 decision must be set aside. On appeal appellant's attorney contends that he did not receive a copy of the June 20, 2012 decision, thereby rendering that decision as not properly issued. By letter dated April 26, 2010, OWCP acknowledged John Eiler Goodwin, Esq., as appellant's authorized representative. On May 14, 2012 OWCP issued a notice of proposed reduction of benefits finding that appellant was capable of earning wages as a security guard at the rate of \$605.79 per week. The record reflects that a copy of OWCP's May 14, 2012 proposal to reduce appellant's wage-loss compensation was sent to counsel at the following address: 151 Finch Place, S.W., Suite H, Bainbridge Island, WA. The letter was returned as undelivered, with a forward time expiration note, listing the following new address: 12170 Viewcrest Place, N.E., Bainbridge Island, WA. In a May 31, 2012 letter to counsel sent to the Viewcrest Place address, OWCP noted the return mail notice and stated: "We have updated our records with your current address." By decision dated June 20, 2012, OWCP reduced appellant's compensation benefits based on his capacity to earn wages in the constructed position of security guard. However, OWCP sent a copy of the June 20, 2012 decision to the Finch Place address instead of counsel's

Viewcrest Place address. Thus, a copy of that decision was not sent to appellant's authorized representative.

OWCP regulations and Board case law require OWCP to send a copy of its decision to appellant and the authorized representative.<sup>1</sup> The Board has held that a decision under the Federal Employees' Compensation Act<sup>2</sup> (FECA) is not properly issued unless both appellant and the authorized representative have been sent copies of the decision.<sup>3</sup> As OWCP did not send the June 20, 2012 decision to appellant's representative, the Board concludes that the decision was not properly issued. The Board will set aside the decision and remand the case for an appropriate and properly issued merit decision on the relevant issues. Accordingly,

**IT IS HEREBY ORDERED THAT** the June 20, 2012 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further action consistent with this order of the Board.

Issued: March 12, 2013  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>1</sup> 20 C.F.R. § 10.127 provides, a copy of the decision shall be mailed to the employee's last known address. If the employee has a designated representative before OWCP, a copy of the decision will also be mailed to the representative. *See also M.R.*, Docket No. 11-632 (issued September 28, 2011). In *George R. Bryant*, Docket No. 03-2241 (issued April 19, 2005), the Board found that OWCP did not properly issue its June 18, 2003 decision when it did not send a copy of that decision to the authorized representative. In *James Consentino*, Docket No. 04-1774 (issued October 21, 2004), the Board found that OWCP improperly issued a decision terminating compensation because it did not mail the decision to appellant's representative and declared the termination decision null and void.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> *See R.J.*, Docket No. 12-174 (issued June 25, 2012); *Travis L. Chambers*, 55 ECAB 138 (2003).