

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

---

**N.D., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
East Brunswick, NJ, Employer**

---

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

**Docket No. 13-108  
Issued: July 22, 2014**

*Appearances:*

*Jason S. Lomax, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER GRANTING PETITION FOR RECONSIDERATION**

Before:

RICHARD J. DASCHBACH, Chief Judge  
PATRICIA HOWARD FITZGERALD, Acting Chief Judge<sup>1</sup>  
COLLEEN DUFFY KIKO, Judge

On February 12, 2013 the Board issued an order dismissing appeal in the above entitled case. By that order, the Board dismissed appellant's appeal of an April 16, 2012 decision of the Office of Workers' Compensation Programs (OWCP), docketed as No. 13-108, on the grounds that the appeal was not filed within 180 days from the date of issuance of OWCP's decision.<sup>2</sup>

On February 25, 2014 appellant, through counsel, filed a petition for reconsideration.

On March 18, 2014 the Director of OWCP filed an answer to the petition for reconsideration, requesting the Board to deny the petition. The Clerk of the Board served appellant a copy of the Director's response on March 25, 2014.

The Board has carefully considered the matter and concludes that the petition should be granted and the Board's February 12, 2013 order dismissing appellant's appeal be set aside.

In the petition for reconsideration, appellant's counsel contended that the appeal request was timely and submitted supporting evidence, including a copy of a certified mail receipt from

---

<sup>1</sup> Effective May 20, 2014, Patricia Howard Fitzgerald, was appointed Acting Chief Judge.

<sup>2</sup> 20 C.F.R. § 501.3(e) (2008).

the U.S. Postal Service dated October 15, 2013 and counsel's affidavit stating that he had mailed appellant's appeal request with the Board on October 15, 2013. The Board has reviewed the evidence submitted by appellant and finds it establishes that her request was mailed on October 15, 2013, which was within 180 days of the April 16, 2012 OWCP decision. Thus, the Board finds that the appeal docketed as 13-108 is timely filed, sets aside the February 12, 2013 Board's dismissal order and reinstates the appeal for a full decision and order by the Board.

**IT IS HEREBY ORDERED THAT** appellant's February 25, 2014 petition for reconsideration is granted. The appeal docketed as No. 13-108 shall go forward.<sup>3</sup>

Issued: July 22, 2014  
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

---

<sup>3</sup> Richard J. Daschbach, Chief Judge, who participated in the preparation of the order, was no longer a member of the Board after May 16, 2014.