

recorded threat and forwarded a recording to appellant to try and identify the caller. In an October 20, 2012 statement and in hearing testimony, appellant indicated that she identified the caller after listening to the voicemail that was forwarded to her by employing establishment police. She stated that, since she knew of the caller's criminal past, she declined to press charges because she was fearful of retaliation by him and had since felt unsafe and was unable to return to work. Dr. Clint W. Anthony, a Board-certified psychiatrist and appellant's supervisor, reviewed a transcript of the message and disagreed with her assertion that she was in danger.

On January 9, 2013 OWCP denied the claim on the grounds that appellant did not establish a compensable factor of employment. Following a hearing, held on May 14, 2013, in a July 29, 2013 decision, OWCP's hearing representative affirmed the January 9, 2013 decision. Both decisions indicated that only a transcript of the recorded message was reviewed and that neither the claims examiner nor the hearing representative listened to the recording itself before rendering their decisions. Copies of the transcript are in the record before the Board. A copy of the recording itself, however, is not.²

The Board agrees with appellant that listening to the recording itself would be beneficial in rendering an informed opinion in this case. 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 physical recording of the voicemail message and for further reconstruction and assemblage deemed necessary, to be followed by a *de novo* decision on the merits of appellant's claim.

² The record indicates that a compact disc was forwarded to OWCP by appellant's representative and is kept in the video storage area in San Diego, California.

IT IS HEREBY ORDERED THAT the July 29, 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: May 2, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board