

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

L.B., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Chicago, IL, Employer**

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**Docket No. 15-0951
Issued: October 20, 2015**

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

On March 19, 2015 appellant filed a timely application for review of a February 19, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP) which denied her occupational disease claim.

The Board has duly considered the matter and finds that the case is not in posture for a decision and must be remanded to OWCP. In *William A. Couch*,¹ the Board held that, when adjudicating a claim, OWCP is obligated to consider all evidence properly submitted by appellant and received before the final decision is issued. In this case, appellant filed an occupational disease claim (Form CA-2) alleging that she sustained carpal tunnel syndrome causally related to her federal employment and submitted an October 15, 2014 narrative statement describing her alleged injury, a September 2, 2014 medical report from Dr. Anton J. Fakhouri, an attending Board-certified orthopedic surgeon, and a second page of Dr. Fakhouri's July 15, 2014 report. In a December 5, 2014 letter, OWCP notified appellant of the deficiencies of her claim and requested additional factual and medical evidence. It afforded her 30 days to submit additional evidence and respond to its inquiries. In response, appellant submitted two pages of Dr. Fakhouri's July 15, 2014 report and his August 12 and October 7, 2014 reports, and an August 20, 2014 electromyogram/nerve conduction study report from Lisa V. DePasquale, a

¹ 41 ECAB 548 (1990).

physical therapist and Board-certified electromyographer. She resubmitted Dr. Fakhouri's September 2, 2014 report.

In a February 19, 2015 decision, OWCP denied appellant's occupational disease claim, finding that the medical evidence was insufficient to establish that the claimed medical condition was causally related to the accepted work event(s). It stated that she did not submit any additional medical evidence in response to its December 5, 2014 developmental letter. OWCP further stated that an August 12, 2014 report from Dr. Dadhija Patel, a Board-certified internist, did not provide an opinion explaining whether appellant's diagnosed bilateral left wrist and left thumb conditions were causally related to her federal employment.

The Board finds that OWCP, in its February 19, 2015 decision, did not review the medical evidence appellant submitted along with her Form CA-2 and all the medical evidence she submitted in response to its December 5, 2014 developmental letter which addressed her claimed conditions. OWCP only addressed the August 12, 2014 report which it attributed to Dr. Patel rather than Dr. Fakhouri who authored the report. Accordingly, the case will be remanded to OWCP to enable it to properly consider all the evidence submitted at the time of the February 19, 2015 decision. Following such further development as OWCP deems necessary, it shall issue a *de novo* decision on appellant's claim.

IT IS HEREBY ORDERED THAT the February 19, 2015 decision of the Office of Workers' Compensation Programs be set aside and the case remanded to OWCP for further proceedings consistent with this order.

Issued: October 20, 2015
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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