

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

L.J., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Frazer, PA, Employer**

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

**Docket No. 15-0320
Issued: September 28, 2015**

Appearances:
Thomas R. Uliase, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

On November 25, 2014 appellant, through her attorney, filed a timely appeal from an August 27, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). The Board docketed the appeal as No. 15-0320.

The Board has duly considered the matter and notes that on April 17, 2015 it issued an "order to complete record within 30 days" in this case.¹ At that time, the Board noted that the record provided by OWCP to the Board did not include a July 18, 2011 medical report by Dr. Robert Franklin Draper, Jr., a Board-certified orthopedic surgeon. The Board pointed out that, although it appeared from the record that Dr. Draper conducted a second opinion examination on behalf of OWCP on or about July 18, 2011, this report was not in the record. Further, the Board noted that his report is referenced as representing the weight of the medical evidence by OWCP's medical adviser in his medical opinion dated August 21, 2013 and was used as the basis for his determination that appellant had a two percent permanent impairment of his left upper extremity. OWCP relied upon the report of the medical adviser in awarding appellant a schedule award for a two percent permanent impairment of her left upper extremity on December 16, 2013, a decision that was affirmed by an OWCP hearing representative on August 27, 2014.

¹ Docket No. 15-320 (issued April 17, 2015).

The Board allotted the Director of OWCP 30 days within which to produce the completed record or show reason why he cannot comply. The 30-day period for response expired on May 18, 2015. However, the Director did not produce the completed record within the allotted time. Accordingly, the case is remanded to OWCP for reconstruction and proper assemblage of the case record, to be followed by the issuance of an appropriate decision to protect appellant's appeal rights.

IT IS HEREBY ORDERED that the August 27, 2014 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action consistent with this order of the Board.

Issued: September 28, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board