

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

G.A., Appellant)	
)	
and)	Docket No. 18-0266
)	Issued: February 25, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
Bonita Springs, FL, Employer)	
)	

Appearances:
Appellant, pro se
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
ALEC J. KOROMILAS, Alternate Judge

On November 20, 2017 appellant filed a timely appeal from an October 20, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). The Board assigned the appeal Docket No. 18-0266.

On May 16, 2017 appellant, then a 56-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on May 13, 2017 he injured his shoulder while lifting bags of food off of mailboxes in the performance of duty. He stopped work on May 15, 2017. The Form CA-1 listed appellant's home mailing address as "15728 Fu... Rd."

On July 25, 2017 OWCP received a copy of a July 21, 2017 limited-duty assignment. The attached cover letter listed appellant's mailing address as "17528 Fu... Rd." On July 27, 2017 OWCP received a July 24, 2017 claim for compensation (Form CA-7), which similarly identified appellant's mailing address as "17528 Fu... Rd."

In a July 28, 2017 claim development letter, OWCP informed appellant that he had not submitted sufficient evidence to support his claim. It noted that he had not submitted sufficient evidence to establish that he actually experienced the alleged employment incident. OWCP also advised that no diagnosis of a condition resulting from the claimed injury had been provided. The letter was addressed to "15728 Fu... Rd."

On August 18, 2017 OWCP's July 28, 2017 development letter was returned as undeliverable.

OWCP subsequently received an October 6, 2017 Form CA-7, which identified appellant's mailing address as "17528 Fu... Rd."

By decision dated October 20, 2017, OWCP denied appellant's traumatic injury claim because he failed to establish the medical component of fact of injury. It explained that he had not submitted medical evidence containing a diagnosis in connection with the injury. OWCP mailed the decision to "15728 Fu... Rd." On October 29, 2017 OWCP's October 20, 2017 decision was returned as undeliverable.

Appellant argues on appeal that he had not been receiving mail from the Department of Labor. When inquiring about the status of his Form CA-7, appellant learned that OWCP's records incorrectly identified both his name and address.

In the absence of evidence to the contrary, it is presumed that a notice mailed in the ordinary course of business was received in due course by the intended recipient.¹ This presumption is commonly referred to as the "mailbox rule."² It arises when the record reflects that the notice was properly addressed and duly mailed.³

OWCP attempted to notify appellant of the deficiencies in his claim, however, its July 28, 2017 claim development letter was returned as undeliverable. It was addressed to "15728 Fu... Rd," rather than appellant's actual address, "17528 Fu... Rd." The October 20, 2017 decision was similarly sent to the wrong address, and it was also returned to OWCP as undeliverable.⁴ In this instance, there is no presumption of receipt arising under the "mailbox rule" given that both of the above-referenced documents were returned as undeliverable. Accordingly, the October 20, 2017 decision shall be set aside, and the case remanded to OWCP in order to provide appellant an opportunity to cure the deficiencies in his claim in accordance with 20 C.F.R. § 10.121. Following this and any other development deemed necessary, OWCP shall issue a *de novo* decision.

¹ *Kenneth E. Harris*, 54 ECAB 502, 505 (2003).

² *Id.*

³ *Id.*

⁴ A copy of the decision shall be mailed to the employee's last known address. 20 C.F.R. § 10.127.

IT IS HEREBY ORDERED THAT the October 20, 2017 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further action.

Issued: February 25, 2019
Washington, DC

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

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

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