

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

G.B., Appellant)	
)	
and)	Docket No. 20-0236
)	Issued: October 9, 2020
DEPARTMENT OF THE INTERIOR, U.S.)	
PARK POLICE, Washington, DC, Employer)	
)	

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On November 9, 2019 appellant filed a timely appeal from a September 5, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 20-0236.

On July 24, 2002 appellant, then a 36-year-old criminal investigator, filed a traumatic injury claim (Form CA-1) alleging that on July 10, 2002 he sustained right Achilles tendinitis when running on pavement during his physical training class while in the performance of duty. By decision dated March 19, 2019, OWCP accepted his claim for right heel Achilles tendinitis under File No. xxxxxx434.

On January 9, 2019 appellant filed a claim for a schedule award (Form CA-7).

In a memorandum to file, OWCP noted that appellant had requested schedule awards under the current file, OWCP File No. xxxxxx434, and OWCP File No. xxxxxx905.¹ It noted that, under

¹ On April 30, 2019 OWCP noted that the record included a compact disc (CD) containing a magnetic resonance imaging (MRI) scan. On May 7, 2019 it noted that the record included a digital video disc (DVD).

OWCP File No. xxxxxx905, he had been referred for a second opinion evaluation to determine left upper extremity and right lower extremity permanent impairment.²

In a report dated June 12, 2019, Dr. Easton L. Manderson, a Board-certified orthopedic surgeon, determined that appellant had zero percent right lower extremity permanent impairment under OWCP File No. xxxxxx434 and seven percent permanent impairment of the left upper extremity under OWCP File No. xxxxxx905 using the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.³ He based his impairment rating on review of a July 15, 2019 MRI scan of the right tibia and fibula, which he related revealed mild tendinosis and mild peritendinitis of the distal Achilles tendon, and July 15, 2019 x-ray interpretations of the right calcaneus, which he related showed minimal degenerative changes. Dr. Manderson also referenced August 15 and September 7, 2006 reports by a podiatrist regarding appellant's right lower extremity, and an October 4 2007 MRI scan of appellant's Achilles tendon. He detailed medical records⁴ reviewed for both claims and provided left upper extremity examination findings. No physical examination findings were provided for the right lower extremity other than appellant reported no foot complaints.

By decision dated September 5, 2019, OWCP denied appellant's schedule award claim finding that the evidence of record was insufficient to establish any right lower extremity permanent impairment. It explained that Dr. Manderson had concluded that appellant had no permanent impairment of the right lower extremity, warranting a schedule award.

The Board had duly considered the matter and finds that this case is not in posture for decision.

The record submitted to the Board is incomplete. As part of the development of appellant's request for a schedule award in this claim, as well as development of appellant's schedule award development for his left shoulder condition in OWCP File No. xxxxxx905, OWCP referred appellant to Dr. Manderson. However, the record does not contain the letter referring appellant to Dr. Manderson, or the accompanying list of questions and statement of accepted facts (SOAF) provided for the physician's review. The current record also does not include the diagnostic testing performed on September 15, 2019, or the diagnostic reports referred to by Dr. Manderson. Moreover, Dr. Manderson noted that he reviewed more documents than the record transmitted to the Board contained.

Section 501.2(c) of the Board's *Rules of Procedure*⁵ provides that the Board has jurisdiction to consider and decide appeals from the final decision of OWCP in any case arising

² The Board notes that these OWCP files have not been combined. OWCP File No. xxxxxx905 appears to be related to an April 27, 2005 traumatic injury to appellant's left shoulder.

³ A.M.A., *Guides* (6th ed. 2009).

⁴ Dr. Manderson noted that he reviewed 166 pages for OWCP File No. xxxxxx434. The Board notes that the case record before the Board contains 96 pages in 23 documents.

⁵ 20 C.F.R. § 501.2(c).

under the Federal Employees' Compensation Act.⁶ Because the record as transmitted to the Board is incomplete and would not permit an informed adjudication of the case,⁷ the Board is unable to properly consider and decide appellant's claim. The case, therefore, is remanded to OWCP for reconstruction and proper assemblage of the record.⁸ After such further development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's right lower extremity schedule award claim. Accordingly,

IT IS HEREBY ORDERED THAT the September 5, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: October 9, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

⁶ 5 U.S.C. § 8101 *et seq.*

⁷ *See H.C.*, Docket No. 19-1976 (issued May 26, 2020); *D.H.*, Docket No. 17-0224 (issued August 16, 2018).

⁸ *Id.*