

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

J.C., Appellant)
)
and) **Docket No. 21-0541**
) **Issued: February 23, 2022**
U.S. POSTAL SERVICE, MAIL PROCESSING)
& DISTRIBUTION CENTER, Trenton, NJ,)
Employer)
)

Appearances:
*Russell T. Uliase, Esq., for the appellant*¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:

ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On February 12, 2021 appellant, through counsel, filed an appeal from an August 14, 2020 merit decision of the Office of Workers’ Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 21-0541.

The Board has duly considered the matter and notes that the Board has jurisdiction to review final adverse decisions of OWCP issued under the Federal Employees’ Compensation Act.² For final adverse decisions of OWCP issued on or after November 19, 2008, the Board’s review

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative’s collection of a fee without the Board’s approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8149; 20 C.F.R. §§ 501.2(c) and 501.3(a) (2009).

authority is limited to appeals which are filed within 180 days from the date of issuance of OWCP's decision.³

The 180th day following the August 14, 2020 decision was Wednesday, February 10, 2021. As appellant did not file an appeal with the Board until February 12, 2021, more than 180 days after the August 14, 2020 OWCP decision, the Board finds that the appeal docketed as No. 21-0541 is untimely filed. The Board is without jurisdiction to review the appeal. Appellant has not offered a reason to explain the failure to timely file an appeal with supporting documentation sufficient to establish compelling circumstances.⁴ Because there is no final adverse decision issued by OWCP within 180 days of the filing of the instant appeal, the Board concludes that the appeal docketed as No. 21-0541, must be dismissed.⁵ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 21-0541 is dismissed.

Issued: February 23, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

³ *Id.* at § 501.3(e).

⁴ While the docket file contains documentation indicating that a representative from counsel's law practice experienced technical difficulty with accessing the practice's login.gov account, there is no indication that she provided the information required for an appeal on or before February 10, 2021. The Board's *Rules of Procedure* provides that a notice of appeal shall contain information including: the name, address, e-mail address, and telephone number of appellant; the decision date and case file number assigned by OWCP concerning the decision being appealed to the Board; and appellant's signature. *See* 20 C.F.R. § 501.3.

⁵ The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance." 20 C.F.R. § 501.6(d).