

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

T.S., Appellant)	
)	
and)	Docket No. 23-1127
)	Issued: December 27, 2023
U.S. POSTAL SERVICE, LAKE WORTH POST)	
OFFICE, Lake Worth, FL, Employer)	
)	

Appearances: *Case Submitted on the Record*
Wayne Johnson, Esq., for the appellant¹
Office of Solicitor, for the Director

ORDER DISMISSING APPEAL

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
JAMES D. MCGINLEY, Alternate Judge

On August 30, 2023 appellant, through counsel, filed an appeal from a March 2, 2023 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).² The Clerk of the Appellate Boards assigned Docket No. 23-1127.

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.³

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 The case record also contains a June 2, 2023 merit decision of OWCP, denying appellant's claim for compensation (Form CA-7) for intermittent disability during the period December 20, 2020 through December 6, 2021. As counsel did not appeal from this decision, the Board will not consider it in this appeal. *See* 20 C.F.R. § 501.3; *see also T.L.*, Docket No. 22-0881 (issued December 14, 2022); *D.E.*, Docket No. 21-0531 (issued June 16, 2021).

³ 5 U.S.C. § 8101 *et seq.*; 20 C.F.R. §§ 501.2(c) and 501.3(a).

For final adverse decisions of OWCP issued on or after November 19, 2008, the Board's review authority is limited to appeals that are filed within 180 days from the date of issuance of OWCP's decision.⁴

The 180th day following the March 2, 2023 decision was August 29, 2023. As appellant did not file an appeal with the Board until August 30, 2023, more than 180 days after the March 2, 2023 OWCP decision, the Board finds that the appeal docketed as No. 23-1127 is untimely filed. The Board is without jurisdiction to review the appeal. Appellant has not explained his failure to timely file an appeal with supporting documentation sufficient to establish compelling circumstances. Because there is no final adverse decision of OWCP, appealed by counsel,⁵ within 180 days of the filing of this appeal, the Board concludes that the appeal docketed as No. 23-1127, must be dismissed.⁶ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 23-1127 is dismissed.

Issued: December 27, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

⁴ 20 C.F.R. § 501.3(e) provides in pertinent part: Any notice of appeal must be filed within 180 days from the date of issuance of a decision of the OWCP.

⁵ *See supra* note 2.

⁶ The Board's decisions and orders are final upon the expiration of 30 days from the date of their issuance. *Id.* at § 501.6(d).