

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

J.L., Appellant

and

**DEPARTMENT OF LABOR, EMPLOYMENT
STANDARDS ADMINISTRATION,
Washington, DC, Employer**

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**Docket No. 23-0249
Issued: February 3, 2023**

Appearances:

*Stephen V. Barszcz, Esq., for the appellant¹
Office of Solicitor, for the Director*

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On December 8, 2022 appellant, through counsel, filed an appeal from a June 7, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 23-0249.

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

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. § 8101, *et seq.*; 20 C.F.R. §§ 501.2(c) and 501.3(a).

review 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 June 7, 2022 decision was Sunday, December 4, 2022. As this fell on a Sunday, appellant had until Monday, December 5, 2022 to file the appeal.⁴ Appellant, however, did not file an appeal with the Board until Thursday, December 8, 2022, more than 180 days after the June 7, 2022 OWCP decision. The Board thus finds that the appeal docketed as No. 23-0249 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. 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. 23-0249, must be dismissed.⁵ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 23-0249 is dismissed.

Issued: February 3, 2023
Washington, DC

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

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

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

³ 20 C.F.R. § 501.3(e).

⁴ *Id.* at § 501.3(f).

⁵ 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).