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

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T.T., Appellant	)
and	) Docket No. 23-0846 ) Issued: July 20, 2023
U.S. POSTAL SERVICE, POST OFFICE, Greensboro, NC, Employer	) )
Appearances: Christina Faliero, for the appellant <sup>1</sup> Office of Solicitor, for the Director	)  Case Submitted on the Record

## ORDER DISMISSING APPEAL

## Before:

ALEC J. KOROMILAS, Chief Judge VALERIE D. EVANS-HARRELL, Alternate Judge JAMES D. McGINLEY, Alternate Judge

On June 5, 2023 appellant, through her representative, filed an appeal from an August 11, 2022 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 23-0846.

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.<sup>2</sup> For final adverse decisions of OWCP issued on or after November 19, 2008, the Board's review authority is limited to appeals which are filed within 180 days from the date of issuance of OWCP's decision.<sup>3</sup>

<sup>&</sup>lt;sup>1</sup> 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.

<sup>&</sup>lt;sup>2</sup> 5 U.S.C. § 8101 et seq.; 20 C.F.R. §§ 501.2(c) and 501.3(a).

<sup>&</sup>lt;sup>3</sup> 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."

The 180<sup>th</sup> day following the August 11, 2022 decision was February 7, 2023. As appellant did not file an appeal with the Board until June 5, 2023, more than 180 days after the August 11, 2022 OWCP decision, the Board finds that the appeal docketed as No. 23-0846 is untimely filed. The Board is without jurisdiction to review the appeal. Appellant's representative argued that appellant's appeal was untimely because, among other things, OWCP sent appellant's decision to an incorrect address, and that there were problems with OWCP's electronic filing system. However, this explanation is insufficient without supporting documentation to establish compelling circumstances as required under section 501.3(e) of the Board' *Rules of Procedure*. 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. 23-0846, must be dismissed. Accordingly,

**IT IS HEREBY ORDERED THAT** the appeal docketed as No. 23-0846 is dismissed.

Issued: July 20, 2023 Washington, DC

> Alec J. Koromilas, 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

<sup>&</sup>lt;sup>4</sup> *Id.* 20 C.F.R. § 501.3(e) further provides: "The Board maintains discretion to extend the time period for filing an appeal if an applicant demonstrates compelling circumstances. Compelling circumstances means circumstances beyond the appellant's control that prevent the timely filing of an appeal and does not include any delay caused by the failure of an individual to exercise due diligence in submitting a notice of appeal."

<sup>&</sup>lt;sup>5</sup> 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).