

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

_____)	
T.K., Appellant)	
)	
and)	Docket No. 22-1326
)	Issued: March 16, 2023
U.S. POSTAL SERVICE, POST OFFICE,)	
Rockwood, TN, Employer)	
_____)	

Appearances: *Case Submitted on the Record*
*Alan J. Shapiro, Esq., for the appellant*¹
Office of Solicitor, for the Director

ORDER DISMISSING APPEAL

Before:
ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On September 8, 2022 appellant, through counsel, filed a timely appeal from an August 26, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 22-1326.

The Board, having duly considered the matter, notes that the Board and OWCP may not simultaneously exercise jurisdiction over the same issue(s) in a case on appeal.² The August 26, 2022 OWCP decision denied reconsideration of a December 17, 2021 merit decision. However, on May 31, 2022, appellant filed an appeal of the December 17, 2021 decision under Docket No.

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 20 C.F.R. §§ 501.2(c)(3), 10.626; *see, e.g., M.C.*, Docket No. 18-1278 (issued March 7, 2019).

22-0920.³ As the appeal in Docket No. 22-0920 was pending on August 26, 2022, OWCP's August 26, 2022 decision is *null* and *void*.⁴

As OWCP's August 26, 2022 decision is *null* and *void*, counsel did not appeal from a final adverse decision. As there is no final adverse decision issued by OWCP over which the Board may properly exercise jurisdiction, the Board concludes that the appeal docketed as No. 22-1326 must be dismissed. Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 22-1326 is dismissed.

Issued: March 16, 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

³ *Order Dismissing Appeal*, Docket No. 22-0920 (issued September 6, 2022).

⁴ The Board and OWCP may not simultaneously exercise jurisdiction over the same issue(s). 20 C.F.R. §§ 501.2(c)(3), 10.626; *see D.P.*, Docket No. 20-1330 (issued February 19, 2021); *J.C.*, Docket No. 19-1849, n.2 (issued November 17, 2020); *Russell E. Lerman*, 43 ECAB 770 (1992); *Douglas E. Billings*, 41 ECAB 880 (1990).