

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

R.W., Appellant)	
)	
and)	Docket No. 21-1426
)	Issued: May 8, 2023
U.S. POSTAL SERVICE, SEMINOLE POST)	
OFFICE, Seminole, FL, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On September 27, 2021 appellant filed a timely appeal from a September 2, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 21-1426.

The record reveals that, following the filing of the current appeal, appellant passed away on December 9, 2022. By letter dated January 27, 2023, the Clerk of the Appellate Boards, pursuant to section 501.3(d) of the Board's *Rules of Procedure*,¹ advised the deceased employee's son that since his mother had filed the appeal in her lifetime, a letter to the Board was required indicating that he would serve as the substitute appellant to allow the appeal to go forward. The Clerk of the Appellate Boards afforded 30 days for a response. However, no response was received in the time allotted.

The Board, having duly considered the matter, notes that section 501.3(d) of its *Rules of Procedure* provides: "Should the Appellant die after having filed an appeal with the Board, the appeal may proceed to decision provided there is the substitution of a Appellant that the appeal

¹ 20 C.F.R. § 501.3(d).

proceed to decision by the Board.”² Neither the deceased employee’s son nor any designee responded to the request of the Clerk of the Appellate Boards for a substitution of a proper appellant. Since there is no substitution of a proper appellant to allow the current appeal to go forward, the Board concludes that the appealed docketed as No. 21-1426 must, therefore, be dismissed.³ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 21-1426 is dismissed.⁴

Issued: May 8, 2023
Washington, DC

Janice B. Askin, Judge
Employees’ Compensation Appeals Board

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

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

² *Id.*; see *Albert F. Kimbrell*, 4 ECAB 662 (1952) (since “the employee” filed a proper appeal before the Board while alive the appeal may proceed to adjudication by the Board if there is a substitution of a proper appellant).

³ See *John J. Cremo*, 38 ECAB 153 (1986) (the Board dismissed the appeal as there was no substitution of a proper appellant following the employee’s death after having filed the appeal).

⁴ The Board’s decisions and orders are final upon the expiration of 30 days from the date of their issuance. See 20 C.F.R. § 501.6(d).