

On May 15, 1998 appellant, then a 38-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on April 13, 1998 he was falsely accused by a coworker, V.H., for using “improper language” while in the performance of duty. This resulted in an April 17, 1998 “just cause” interview for unacceptable conduct, which he contended set off his preexisting psychological condition. Appellant stopped work on April 18, 1998 and returned to work on May 15, 1998.³

By decision dated July 6, 1998, OWCP denied appellant’s claim. It found that the evidence failed to establish a compensable employment factor. An OWCP hearing representative affirmed this decision on May 6, 1999.

Appellant continued to pursue his appeal rights and he continued to submit additional evidence. By decision dated December 12, 2018, OWCP denied appellant’s request for reconsideration, finding that it was untimely filed, and failed to demonstrate clear evidence of error.

Following an appeal by appellant the Board, by decision dated February 5, 2020, affirmed OWCP’s decision dated December 12, 2018.⁴ It found that OWCP properly denied appellant’s request for reconsideration as it was untimely filed and failed to demonstrate clear evidence of error in OWCP’s May 6, 1999 decision.

Appellant continued to pursue his appeal rights and submit additional evidence.

On May 12 and December 8, 2022 OWCP received appellant’s letters dated May 8 and December 5, 2022 requesting reconsideration. He submitted arguments as to why he believed that his claim was pending.

By decision dated January 24, 2023, OWCP denied appellant’s request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error. It advised “[y]ou did not present clear evidence of error. Therefore your request for reconsideration is denied because it was not received within the one-year limit.”

The Board finds that this case is not in posture for decision.

OWCP summarily denied appellant’s request for reconsideration without complying with the review requirement of FECA and its implementing regulations.⁵ Section 8124(a) of FECA provides that OWCP shall determine and make a finding of facts and make an award for or against payment of compensation.⁶ Its regulations at 20 C.F.R. § 10.126 provide that the decision of the

³ The record is unclear as to when appellant again stopped work.

⁴ *Supra* note 2.

⁵ See *Order Remanding Case, R.G.*, Docket No. 23-0011 (issued June 14, 2023); *Order Remanding Case, C.G.*, Docket No. 20-0051 (issued June 29, 2020); *Order Remanding Case, T.P.*, Docket No. 19-1533 (issued April 30, 2020); see also 20 C.F.R. § 10.607(b).

⁶ 5 U.S.C. § 8124(a).

Director of OWCP shall contain findings and facts and a statement of reasons.⁷ As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.⁸

OWCP, in its January 24, 2023 decision, did not consider or address appellant's arguments it received in his May 8 and December 5, 2022 letters requesting reconsideration. Specifically, he set forth arguments as to why he believed that his claim was pending. OWCP failed to analyze these arguments to determine whether it was sufficient to demonstrate clear evidence of error. The Board finds that OWCP failed to properly explain the findings with respect to the issue presented so that appellant could understand the basis for the decision, *i.e.*, whether he had demonstrated clear evidence that OWCP's last merit decision was incorrect.⁹

The Board will therefore set aside OWCP's January 24, 2023 decision and remand the case for findings of fact and a statement of reasons, to be followed by an appropriate decision on appellant's reconsideration request.¹⁰ Accordingly,

⁷ 20 C.F.R. § 10.126.

⁸ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013) (all decisions should contain findings of fact sufficient to identify the benefit being denied and the reason for the disallowance).

⁹ *T.T.*, Docket No. 21-1278 (issued March 29, 2022); *M.G.*, Docket No. 21-0893 (issued December 27, 2021); *R.C.*, Docket No. 21-0466 (issued February 16, 2022).

¹⁰ *See Order Remanding Case, D.R.*, Docket No. 21-1229 (issued July 6, 2022); *T.P.*, *supra* note 5; *see also* 20 C.F.R. § 10.607.

IT IS HEREBY ORDERED THAT the January 24, 2023 decision of the Office of Workers' Compensation Programs is set aside. The case is remanded for further proceedings consistent with this order of the Board.

Issued: November 29, 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