

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

K.J., Appellant)	
)	
and)	Docket No. 23-0318
)	Issued: September 21, 2023
U.S. POSTAL SERVICE, MINUET ANNEX)	
POST OFFICE, Charlotte, NC, Employer)	
)	

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On December 30, 2022 appellant filed a timely appeal from a July 6, 2022 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-0318.

On January 18, 2017 appellant, then a 37-year-old postal support employee clerk, filed an occupational disease claim (Form CA-2) alleging that she developed pain, discomfort, numbness, and tingling in her fingers and wrist due to factors of her federal employment, including repetitive actions of processing, picking up, and throwing a variety of packages and letters. She noted that she first became aware of and realized the relation of her conditions to her federal employment on December 1, 2016. Appellant stopped work on January 18, 2017. By decision dated March 21, 2017, OWCP accepted the claim for bilateral carpal tunnel syndrome. It paid appellant wage-loss compensation.

On June 1, 2020 appellant filed claims for compensation (Form CA-7) for intermittent disability from work for the period May 4 through 22, 2020.

By decision dated August 24, 2020, OWCP denied appellant's claim for disability from work for the period May 4 through 22, 2020, finding that the medical evidence of record was insufficient to establish disability from work during the claimed period causally related to the accepted employment injury.

On November 30, 2020 appellant requested reconsideration of the August 24, 2020 decision.

By decision dated July 6, 2022, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

The Board, having duly considered the matter, finds that this case is not in posture for decision.¹

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.² The last merit decision regarding disability claimed for the period May 4 through 22, 2020 was OWCP's August 24, 2020 decision. As appellant's request for reconsideration was received on November 30, 2020, within one year of the August 24, 2020 merit decision, the Board finds that her request for reconsideration was timely filed.

OWCP, however, applied the clear evidence of error standard in reviewing appellant's request for reconsideration.³ That standard is only appropriate in cases where a reconsideration request is untimely filed.⁴ Because OWCP erroneously reviewed the evidence submitted in support of appellant's reconsideration request under the clear evidence of error standard, the case shall be remanded for application of the appropriate standard of review for timely requests for reconsideration as set forth at 20 C.F.R. § 10.606(b)(3), to be followed by an appropriate decision.⁵ Accordingly,

¹ See *T.L.*, Docket No. 19-1110 (issued August 11, 2020).

² 20 C.F.R. § 10.607(a).

³ *C.D.*, Docket No. 17-1074 (issued August 28, 2017); *A.M.*, Docket No. 16-1250 (issued December 20, 2016).

⁴ See *V.M.*, Docket No. 18-1184 (issued July 10, 2019); *Donna M. Campbell*, 55 ECAB 241 (2004).

⁵ *A.K.*, Docket No. 20-0003 (issued June 2, 2020); *Order Remanding Case, J.H.*, Docket No. 18-1367 (issued July 17, 2019); *E.S.*, Docket No. 17-0698 (issued July 14, 2017).

IT IS HEREBY ORDERED THAT the July 6, 2022 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: September 21, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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