United States Department of Labor Employees' Compensation Appeals Board

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E.T., Appellant

and

Appearances:

Appellant, pro se

Office of Solicitor, for the Director

U.S. POSTAL SERVICE, FEDERAL WAY POST OFFICE, Federal Way, WA, Employer Docket No. 23-0464 Issued: September 22, 2023

Case Submitted on the Record

ORDER REMANDING CASE

<u>Before:</u> ALEC J. KOROMILAS, Chief Judge PATRICIA H. FITZGERALD, Deputy Chief Judge JANICE B. ASKIN, Judge

On February 15, 2023 appellant filed a timely appeal from September 9 and December 6, 2022 and January 6, 2023 merit decisions of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-0464.

On August 1, 2022 appellant, then a 55-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he had a torn meniscus in his left knee in the same location as a previous 2018 injury due to factors of his federal employment, including walking 13 miles, climbing 56 flights of steps, sorting mail, and lifting trays of mail and parcels weighing up to 70 pounds each day. He noted that he first became aware of his claimed condition and realized its relation to his federal employment on July 23, 2022. OWCP assigned the claim OWCP File No. xxxxxx501.

Appellant had previously filed a traumatic injury claim (Form CA-1) for an injury sustained on August 14, 2018, which OWCP accepted for sprain of unspecified site of left knee. OWCP assigned this prior claim, OWCP File No. xxxxxx107. Appellant also had previously filed a Form CA-1 for an injury sustained on April 12, 2022 for a dog bite on the backside of his left leg under OWCP File No. xxxxxx023.

By decision dated September 9, 2022, OWCP denied the present claim, under OWCP File No. xxxxx501, finding that causal relationship had not been established.

On December 1, 2022 appellant requested reconsideration and submitted additional medical evidence. By decision dated December 6, 2022, OWCP denied modification of its September 9, 2022 decision.

On January 1, 2023 appellant requested reconsideration and continued to submit evidence. By decision dated January 6, 2023, OWCP denied modification of its December 6, 2022 decision, referencing his prior claim under OWCP File No. xxxxxx107.

The Board has duly considered this matter and concludes that the case is not in posture for decision.

OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.¹ For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition, doubling is required.² Herein, appellant had prior claims for left lower extremity conditions under OWCP File Nos. xxxxx107 and xxxxx023. He subsequently filed an occupational disease claim on August 1, 2022 under the instant claim, OWCP File No. xxxxx501, also concerning a left lower extremity condition.

Therefore, for a full and fair adjudication, the case must be remanded to OWCP to administratively combine the current case record, OWCP File No. xxxxxx501, with OWCP File Nos. xxxxx107 and xxxxx023. On remand OWCP shall review all relevant evidence to determine whether appellant has established an injury in the performance of duty. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

² *Id.*; *S.G.*, Docket No. 21-0396 (issued September 27, 2021); *R.L.*, Docket No. 20-0901 (issued July 27, 2021); *M.E.*, Docket No. 21-0094 (issued May 27, 2021); *L.M.*, Docket No. 19-1490 (issued January 29, 2020); *L.H.*, Docket No 18-1777 (issued July 2, 2019).

IT IS HEREBY ORDERED THAT the January 6, 2023 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 22, 2023 Washington, DC

> Alec J. Koromilas, Chief Judge Employees' Compensation Appeals Board

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

Janice B. Askin, Judge Employees' Compensation Appeals Board