United States Department of Labor
Employees' Compensation Appeals Board

L.R., Appellant	)	
and	)	**Docket No. 25-0044**
	)	**Issued: September 24, 2026**
U.S. POSTAL SERVICE, NORTH TEXAS PROCESSING AND DISTRIBUTION CENTER, Coppell, TX, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On October 17, 2024 appellant filed a timely appeal from a May 29, 2024 merit decision and a September 5, 2024 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUES

The issues are: (1) whether OWCP has met its burden of proof to reduce appellant's wage-loss compensation, effective May 29, 2024, pursuant to 20 C.F.R. § 10.500(a), based on her

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the September 5, 2024 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

earnings had she accepted a temporary limited-duty assignment; (2) whether appellant has met her burden of proof to establish that her refusal of the temporary limited-duty assignment was justified; and (3) whether OWCP properly denied appellant's request for an oral hearing as untimely filed, pursuant to 5 U.S.C. § 8124(b).

FACTUAL HISTORY

On May 15, 2007 appellant, then a 45-year-old clerk, filed a traumatic injury claim (Form CA-1) alleging that on that day, she injured her back when she began to sit down in a chair and its back gave way, causing her to fall backward.[3] She stopped work on May 16, 2007. OWCP accepted the claim for neck sprain, thoracic sprain, and lumbar sprain. It subsequently expanded the acceptance of the claim to include unspecified derangement of the right medial meniscus, traumatic arthropathy of the right knee, and chondromalacia of the right knee. OWCP paid appellant wage-loss compensation on the supplemental rolls commencing November 9, 2010, and on the periodic rolls commencing December 19, 2010.[4] Appellant retired from federal employment effective March 21, 2013. She remained under medical treatment.

On September 6, 2023 OWCP referred appellant, the case record, a statement of accepted facts (SOAF), and a series of questions to Dr. Ali Ashraf, a Board-certified orthopedic surgeon, for a second opinion evaluation regarding the nature and extent of the accepted conditions, the appropriate treatment, and appellant's work capacity.

In an October 21, 2023 report, Dr. Ashraf reviewed the medical record and SOAF. He reported findings on physical examination including tenderness to palpation of the lumbar spine and cervical paraspinous musculature, and bilaterally positive straight leg raising tests. Dr. Ashraf diagnosed active work-related conditions of neck, thoracic, and lumbar sprains, derangement of right medial meniscus, derangement of right lateral meniscus, chondromalacia of the right knee, and traumatic arthropathy of the right knee. He indicated that appellant had not reached maximum medical improvement (MMI). In an October 22, 2023 work capacity evaluation (Form OWCP-5c), Dr. Ashraf returned appellant to full-time sedentary work. He indicated that restrictions would apply for five to nine months but did not indicate specific work limitations.

On February 5, 2024, the employing establishment offered appellant a full-time, limited-duty assignment as a modified mail processing clerk, effective March 23, 2024. The duties of the position included facing and sorting single pieces of mail while seated at a table. The position required up to eight hours of intermittent sitting, brief walking and standing, lifting, carrying,

[3] OWCP assigned the present claim OWCP File No. xxxxxx084. Previously, under OWCP File No. xxxxxx499, it accepted an occupational disease claim (Form CA-2) for ulnar nerve lesions of the bilateral upper extremities, bilateral carpal tunnel syndrome, acute osteomyelitis of the bilateral hands, bilateral trigger fingers of the ring, middle, index fingers, and other bilateral peripheral enteropathies, causally related to repetitive use of the bilateral upper extremities causally related to factors of her federal employment. Under OWCP File No. xxxxxx582, OWCP accepted a traumatic injury claim (Form CA-1) for effusion and contusion of the left knee sustained on June 22, 2004 while in the performance of duty. On December 6, 2007 it administratively combined appellant's claims under OWCP File Nos. xxxxxx084, xxxxxx582, and xxxxxx499, with the latter serving as the master file.

[4] On November 11, 2010, appellant underwent OWCP-authorized right knee arthroscopy with partial medial and lateral meniscectomy, arthroscopic abrasion chondroplasty of the patellofemoral joint, and abrasion chondroplasty of the medial and lateral compartments. On September 17, 2015 appellant underwent OWCP-authorized right knee total arthroplasty.

pulling, and pushing up to 10 pounds, simple grasping, fine manipulation, and reaching above shoulder level. The annual salary of the position was $56,554.00.[5]

On February 16, 2024, appellant refused the position, asserting that the physical requirements would aggravate her lumbar spine and bilateral upper extremity conditions.

In a February 23, 2024 job offer refusal memorandum, the employing establishment acknowledged appellant's refusal of the offered position. In response to a question, "Is this a temporary job[,]" the employing establishment answered "No[.]"

In a February 27, 2024 attending physician's report (Form CA-20), Dr. LaShondria Camp, a Board-certified general surgeon, diagnosed traumatic arthropathy of the right knee, back sprain, thoracic sprain, lumbar sprain, derangement of right medial meniscus, and chondromalacia of the right knee. She held appellant off work through April 9, 2024.

In a notice dated March 5, 2024, OWCP proposed to reduce appellant's wage-loss compensation, pursuant to 20 C.F.R. § 10.500(a). It advised her that it had reviewed the work restrictions provided by Dr. Ashraf and determined that the temporary position the employing establishment offered on February 5, 2024, was within those restrictions. OWCP noted that the weekly salary of the offered position was $1,087.58. It informed appellant of the provisions of 20 C.F.R. § 10.500(a) and advised her that a claimant who declined "a temporary light[-]duty assignment deemed appropriate by OWCP (or fails to report for work when scheduled) is not entitled to compensation for total wage loss for the duration of the assignment." OWCP afforded her 30 days either to accept the offered position or provide a written explanation with justification for her refusal.

OWCP subsequently received reports dated February 26 through May 21, 2024, wherein Dr. Benjamin Kim, a Board-certified anesthesiologist, provided a history of injury and treatment. Dr. Kim diagnosed sprain of joints and ligaments of other parts of neck, sprain of ligaments of thoracic spine, lumbar sprain, derangements of other medial meniscus due to old tear or injury, derangement of other lateral meniscus due to old tear of injury, chondromalacia, tension-type headache, unspecified, not intractable, and cervical (neck) pain. He prescribed medication.

In reports dated April 9 through May 21, 2024, Dr. Terry Madsen, a Board-certified orthopedic surgeon, diagnosed traumatic arthropathy of the right knee, back sprain, thoracic sprain, lumbar sprain, derangement of right medial meniscus, derangement of right lateral meniscus, and chondromalacia of the right knee. He opined that the accepted conditions remained active and held appellant off work through July 3, 2024.

By decision dated May 29, 2024, OWCP reduced appellant's wage-loss compensation, effective that date, pursuant to 20 C.F.R. § 10.500(a). It found that she did not provide adequate justification for declining the offered February 5, 2024 temporary light-duty assignment, which was within her medical restrictions as set forth by Dr. Ashraf. In reducing appellant's compensation, OWCP applied the formula derived from the principles contained in the case of

[5] A partially legible cover letter dated February 6, 2024 was received.

Albert C. Shadrick[6] to calculate her loss of wage-earning capacity (LWEC). It determined that as the current pay rate for appellant's job and step when injured was $1,115.46 effective February 5, 2024, and she was capable of earning $1,115.46 a week,[7] her compensation would be reduced to zero as she had no LWEC.

In a July 22, 2024 statement, appellant asserted that the February 6, 2024 modified-duty job offer did not consider all conditions accepted under her three claims,[8] and that Dr. Ashraf did not provide specific work limitations.

In reports dated July 23, 2024, Dr. Camp held appellant off work for the period February 27 through April 9, 2024.[9]

In reports dated April 9 through August 26, 2024, Dr. Madsen found appellant totally disabled from work for the period July 15 through October 7, 2024.

OWCP subsequently received a legible copy of the February 6, 2024 cover letter associated with the modified-duty job offer, wherein the employing establishment described the position as a limited-duty modified assignment.

On August 16, 2024 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. In supporting statements, she explained that she had been unable to timely file her request for an oral hearing within 30 days of the May 29, 2024 decision as she underwent nonoccupational surgeries on May 23 and June 27, 2024, followed by rehabilitation through July 11, 2024.

In reports dated August 20, 2024, Dr. Kim found appellant totally disabled from work for the period August 26 through October 7, 2024.[10]

By decision dated September 5, 2024, OWCP denied appellant's request for an oral hearing, finding that the request was not made within 30 days of the May 29, 2024 decision and, therefore, was untimely filed. It further exercised its discretion and determined that the issue in the case could equally well be addressed through a request for reconsideration before OWCP along with the submission of new evidence.

[6] 5 ECAB 376 (1953); codified at 20 C.F.R. §§ 10.403(d)-(e).

[7] The Board notes that in its March 5, 2024 notice, OWCP indicated that the weekly salary of the offered modified-duty position was $1,087.58, an amount less than $1,115.46.

[8] *See supra* note 3.

[9] OWCP also received an incomplete, unsigned report dated January 30, 2024 by Dr. Camp.

[10] OWCP also received copies of evidence previously of record, and an August 26, 2024 report by, Oluyemisi Ojo, a certified family nurse practitioner.

LEGAL PRECEDENT -- ISSUE 1

Under FECA, once OWCP has accepted a claim it has the burden of justifying termination or modification of compensation benefits.[11]

Section 10.500(a) of the Code of Federal Regulations provides:

> "(a) Benefits are available only while the effects of a work-related condition continue. Compensation for wage loss due to disability is available only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury. For example, an employee is not entitled to compensation for any wage-loss claimed on a Form CA-7 to the extent that evidence contemporaneous with the period claimed on a Form CA-7 establishes that an employee had medical work restrictions in place; that light duty within those work restrictions was available; and that the employee was previously notified in writing that such duty was available. Similarly, an employee receiving continuing periodic payments for disability was not prevented from earning the wages earned before the work-related injury if the evidence establishes that the employing establishment had offered, in accordance with OWCP procedures, a temporary light-duty assignment within the employee's work restrictions. (The penalty provision of 5 U.S.C. § 8106(c)(2) will not be imposed on such assignments under this paragraph.)"[12]

OWCP's procedures also provide that if the evidence establishes that injury-related residuals continue and result in work restrictions, that light duty within those work restrictions is available, and the employee was notified in writing that such light duty was available, then wage-loss benefits are not payable for the duration of light-duty availability, since such benefits are payable only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury.[13] The claims examiner must provide a pretermination notice if the claimant is being removed from the periodic rolls.[14] When a temporary light-duty assignment either ends or is no longer available, the claimant is entitled to compensation and should be returned to the periodic rolls immediately as long as medical evidence supports any disabling residuals of the work-related condition.[15]

OWCP's procedures further advise: "If there still would have been wage loss if the claimant had accepted the light-duty assignment, the claimant remains entitled to compensation

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[11] *See L.C.,* Docket No. 25-0082 (issued December 26, 2024); *S.V.,* Docket No. 17-1268 (issued March 23, 2018); *I.J.,* 59 ECAB 408 (2008).

[12] 20 C.F.R. § 10.500(a).

[13] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Job Offers and Return to Work*, Chapter 2.814.9c(1)(a) (June 2013).

[14] *Id.* at Chapter 2.814.9c(1)(b).

[15] *Id.* at Chapter 2.814.9c(1)(d).

benefits based upon the temporary actual earnings WEC [wage-earning capacity] calculation (just as if he/she had accepted the light-duty assignment)."[16]

ANALYSIS -- ISSUE 1

The Board finds that OWCP failed to meet its burden of proof to reduce appellant's wage-loss compensation, effective May 29, 2024.

The evidence of record contains a written job offer, dated February 5, 2024, for a full-time limited-duty assignment as a modified mail processing clerk, which appellant refused on February 16, 2024. However, the employing establishment did not indicate that the position was temporary in nature. Additionally, in the February 23, 2024 job refusal memorandum, the employing establishment answered "No" to the question as to whether the offered position was temporary.

Pursuant to 20 C.F.R. § 10.500(a), OWCP has the burden of proof to establish that appellant declined an offered employment position that was temporary in nature.[17] The evidence of record is insufficient to establish that the modified job offered on February 5, 2024 was temporary. The Board thus finds that OWCP failed to meet its burden of proof to reduce appellant's wage-loss compensation.[18]

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to reduce appellant's wage-loss compensation, effective May 29, 2024.[19]

[16] *Id.* at Chapter 2.814.9(c)(8). *See also D.S.*, Docket No. 21-0996 (issued July 14, 2023).

[17] *See N.H.,* Docket No. 24-0659 (issued September 19, 2024); *M.B.,* Docket No. 24-0478 (issued June 5, 2024); *A.W.,* Docket No. 21-1287 (issued September 22, 2023); *C.W.,* Docket No. 18-1779 (issued May 6, 2019).

[18] *See J.W.*, Docket No. 26-0011 (issued January 15, 2026); *M.N.,* Docket No. 25-0818 (issued November 25, 2025); *L.C.,* Docket No. 25-0082 (issued December 26, 2024); *N.H., id.*; *M.B., id.*; *A.W., id.*; *C.W., id*.

[19] In light of the Board's disposition of Issue 1, Issues 2 and 3 are rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the May 29, 2024 decision of the Office of Workers' Compensation Program is reversed. The September 5, 2024 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: September 24, 2026
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