

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

B.K., Appellant)	
)	
and)	Docket No. 23-0126
)	Issued: May 10, 2023
U.S. POSTAL SERVICE, BEDFORD PARK POST OFFICE, Bedford Park, IL, Employer)	
)	

Appearances: *Case Submitted on the Record*
Appellant, pro se
Office of Solicitor, for the Director

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On November 4, 2022 appellant filed a timely appeal from an August 8, 2022 merit decision,¹ and a September 2, 2022 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 23-0126.

On September 20, 2021 appellant, then a 50-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on September 4, 2021 she twisted her left ankle when she stepped out of her postal vehicle while in the performance of duty. She stopped work on September 5, 2021. OWCP accepted the claim for sprain of unspecified ligament of the left ankle.

¹ The Board notes that while OWCP's August 8, 2022 letter was not accompanied by appeal rights, it was a final adverse decision issued by OWCP. In that letter OWCP, by its own motion, denied modification of a January 18, 2022 merit decision. In considering whether a document constitutes a final decision, it is not the form, but the content and the intention of OWCP that is determinative. *K.K.*, Docket No. 19-0652 (issued September 19, 2019); *see Henry F. Dyer*, Docket No. 05-452 (issued May 13, 2005) (the Board held that a July 22, 2004 letter with no appeal rights attached constituted a final decision. The Board concludes, therefore, that the August 8, 2022 letter was an appealable final decision subject to review under 20 C.F.R. §§ 501.2(c) and 501.3(a). *See R.G.*, Docket No. 21-0706 (issued April 17, 2023); *K.W.*, Docket No. 18-0055 (issued March 8, 2019); *L.L.*, Docket No. 18-0117 (issued February 25, 2019).

On November 11, 2021 appellant filed a claim for compensation (Form CA-7) for disability from work for the period October 20 through November 11, 2021.

In a development letter dated November 18, 2021, OWCP advised appellant that the evidence submitted was insufficient to establish disability beginning October 20, 2021 and requested that she submit additional medical evidence to establish that she was unable to work during the period claimed due to her September 4, 2021 employment injury. It afforded her 30 days to submit the necessary evidence.

On November 30, 2021 appellant filed an additional Form CA-7 for disability from work for the period November 12 through 30, 2021.

OWCP subsequently received medical evidence.

By decision dated January 18, 2022, OWCP denied appellant's claim for compensation for disability from work for the period commencing October 20, 2021, finding that she had not submitted medical evidence establishing disability from work during the claimed period due to her September 4, 2021 employment injury.

OWCP, by decision dated February 15, 2022, expanded the acceptance of appellant's claim to include other fracture of the upper and lower end of the left fibula for closed fracture.

Thereafter, OWCP received additional medical evidence.

By decision dated August 8, 2022, OWCP, by its own motion, denied modification of the January 18, 2022 decision.

On August 16, 2022 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review of the August 8, 2022 letter.

By decision dated September 2, 2022, OWCP denied appellant's request for a review of the written record, finding that it was untimely filed. It further exercised its discretion and determined that the issue in the case could equally well be addressed by requesting reconsideration by OWCP, along with the submission of new evidence.

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

Section 8124(a) of the Federal Employees' Compensation Act² (FECA) and section 10.126 of the implementing regulations³ require that final decisions of OWCP contain findings of fact and a statement of reasons. A decision denying a claim should contain a correct description of the basis for the denial in order that the parties of interest have a clear understanding of the precise defect of the claim and the kind of evidence which would overcome it.⁴ The Board finds that OWCP's August 8, 2022 decision was incomplete as it did not make

² 5 U.S.C. § 8124.

³ 20 C.F.R. § 10.126.

⁴ *Order Remanding Case, L.R.*, Docket No. 15-0235 (issued December 21, 2015); *Patrick Michael Duffy*, 43 ECAB 280 (1991).

findings regarding the medical evidence appellant submitted. Because the August 8, 2022 decision does not explain the basis for the denial of her disability claim or the findings of fact reached therein, the Board finds that OWCP has not fulfilled its responsibility under section 8124 of FECA and section 10.126 of its implementing regulations.⁵

Accordingly, the case must be remanded to OWCP for a proper decision which includes findings of fact and a clear and precise statement regarding appellant's disability claim. Following further development as OWCP deems necessary, it shall issue a *de novo* decision.

IT IS HEREBY ORDERED THAT the August 8, 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. The September 2, 2022 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: May 10, 2023
Washington, DC

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

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

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

⁵ *Order Remanding Case, P.W.*, Docket No. 21-1101 (issued March 30, 2023); *Order Remanding Case, X.F.*, Docket No. 22-0045 (issued April 14, 2023).