

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LYNDA A. BROOMFIELD and U.S. POSTAL SERVICE,
POST OFFICE, Los Angeles, CA

*Docket No. 03-1820; Submitted on the Record;
Issued September 30, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant is entitled to augmented compensation based on claiming her minor grandson as a dependent under section 8110 of the Federal Employees' Compensation Act.

On September 7, 2000 appellant, then a 53-year-old clerk, filed a notice of occupational disease alleging that she sustained a bilateral arm condition in the performance of duty. The Office of Workers' Compensation accepted the claim for bilateral carpal tunnel syndrome. Appellant sought augmented disability compensation based on claiming her minor grandson, of whom she has legal custody, as a dependent. The record reflects that appellant has been providing financial support for her grandson since his birth and that she gained custody of him following the death of her son in August 1994. In a decision dated August 28, 2002, the Office denied appellant's claim for augmented compensation, finding that her grandson did not qualify as a dependent as defined under the Act. Appellant subsequently requested a hearing, which was held on April 8, 2003. In a decision dated May 15, 2003, an Office hearing representative affirmed the Office's April 8, 2003 decision.

The Board finds that the Office properly determined that appellant was not entitled to augmented compensation based on claiming her minor grandson as a dependent.

Section 8110 of the Act, entitled "augmented compensation for dependents," provides in pertinent part that the term "dependent" includes an unmarried child "while living with the employee or receiving regular contributions from the employee towards his support."¹ The term "child" is further defined under the general definitions at section 8101(9) as "one who ... is under

¹ 5 U.S.C. § 8110(3).

18 years of age or over that age and incapable of self-support and includes stepchildren, adopted children and posthumous children, but does not include married children.”²

The Board has held that a “grandchild” is not among the categories of persons included in the term “child” for purposes of the Act. In the case of *Louis L. Jackson, Sr.*,³ the Board noted that the definition of the term “child” in section 8101(9) provides for three specific relationships in addition to the biological relation between a parent and his or her natural child. The Board stated that there are other close relationships between an adult and a child, such as that between a legal guardian and a ward which are not included.⁴ Section 8110 defines the classes of persons who qualify as “dependents” and thereby come within the scope of the Act for purposes of augmented compensation.⁵ That section states that only a member of the classes of children specifically defined as a “child” of the injured employee will entitle the latter to augmented compensation for dependents. Further, the Board noted that the term “grandchild” is separately defined under section 8101(10)⁶ and appears only in section 8133,⁷ which provides for those classes of persons as specifically defined who are eligible for death benefits. While congress allowed grandchildren as a class of persons eligible for death benefits under section 8133, congress did not specifically define that class of persons as dependents for purposes of augmented compensation under section 8110.⁸ Consequently, the Board finds that appellant is not eligible for augmented compensation based on claiming her grandson as a dependent.⁹

² 5 U.S.C. § 8109(9).

³ *Louis L. Jackson, Sr.*, 39 ECAB 423 (1988).

⁴ *Id.*

⁵ 5 U.S.C. § 8110.

⁶ 5 U.S.C. § 8101(10).

⁷ 5 U.S.C. § 8133.

⁸ *Id.*

⁹ *Peggy R. Thompson*, 51 ECAB 393 (2001).

The decision of the Office of Workers' Compensation Programs dated May 15, 2003 is hereby affirmed.

Dated, Washington, DC
September 30, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member