

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

L.H., Appellant

and

**U.S. POSTAL SERVICE, TRANSPORTATION
OPERATIONS, Dallas, TX, Employer**

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**Docket No. 12-878
Issued: March 12, 2013**

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:

PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

On March 13, 2012 appellant filed a timely appeal from a February 10, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). The appeal was docketed as No. 12-878.

The February 10, 2012 OWCP decision finds that an overpayment of \$2,877.53 was created as appellant received a November 19, 2011 compensation payment after his return to work on August 1, 2011. But a review of the evidence of record does not establish an overpayment of \$2,877.53 occurred. While OWCP improperly issued a November 19, 2011 compensation payment, there was no evidence of record that appellant negotiated, deposited or otherwise accepted the compensation payment.¹ Appellant had returned other compensation payments after his return to work and he had requested instruction as to the proper method to return the November 19, 2011 payment. OWCP did not make adequate findings as to fact of overpayment in this case.

¹ See *R.C.*, Docket No. 09-2313 (issued June 22, 2010) (OWCP did not make findings as to whether compensation checks were cancelled as alleged).

The case will be remanded to OWCP for proper findings on the overpayment issues.² After such development as is deemed necessary, OWCP should issue an appropriate decision.

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 10, 2012 is set aside and the case remanded for appropriate action.

Issued: March 12, 2013
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

² The Board notes that OWCP attempted to offset the amount of overpayment by deducting a \$113.20 underpayment of compensation for July 31, 2011. It is well established that OWCP should not attempt to offset an overpayment by amounts owed to appellant. *See T.H.*, Docket No. 12-191 (issued July 25, 2012); *Lawrence Sherman*, 55 ECAB 359 (2004). These are separate issues and on remand OWCP should properly address the entitlement to \$113.20 in compensation.