

performance of duty, as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On February 6, 2019 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

An April 22, 2019 memorandum of telephone call (Form CA-110) indicated that appellant was concerned about the scheduling of his oral hearing date, and advised that he would not be available June through August due to military deployment. OWCP suggested that he send his request in writing with as many details as possible and added that it would be considered.

In an April 22, 2019 letter, appellant requested that his oral hearing be scheduled after September 15, 2019 in order to accommodate his military training in the summer and his Family and Medical Leave Act (FMLA) leave after his military training due to the upcoming birth of his child in the beginning of September. He stated that if his hearing was scheduled between June and August he would not be available due to his military leave, and he related that he attached reservation dates.

An April 25, 2019 Form CA-110 indicated that OWCP confirmed with appellant that partial documents were received regarding his request to delay his oral hearing, and it advised that the additional evidence he mentioned in his statement needed to be submitted prior to its final response. Appellant stated that he was working on submitting the evidence.

In an April 29, 2019 Form CA-110, OWCP informed appellant that the information currently on file was insufficient to grant a postponement. It further advised that if his claim was in posture for hearing it would be scheduled in June 2019.

On May 9, 2019 OWCP informed appellant that it scheduled his hearing date for June 10, 2019 at 10:30 a.m. Eastern Time and supplied the toll free number and passcode.

By decision dated June 24, 2019, OWCP determined that appellant had abandoned his request as he failed to appear at the June 10, 2019 oral hearing. It indicated that he had received written notice of the hearing 30 days in advance, and that he failed to appear for the oral hearing. OWCP further noted that there was no indication in the record that appellant had contacted it either prior to or subsequent to the scheduled hearing to explain his failure to appear.

The Board has duly considered the matter and finds that OWCP improperly determined that appellant had abandoned his request for hearing.

OWCP's found in its June 24, 2019 decision that there was no indication in the record that appellant had contacted it either prior to or subsequent to the June 10, 2019 scheduled hearing to explain his failure to appear. However, an April 22, 2019 Form CA-110 indicated that appellant called OWCP concerned about the scheduling of his oral hearing date and indicated that he would not be available June through August due to military deployment. In an April 22, 2019 letter, appellant requested that his oral hearing be scheduled after September 15, 2019 in order to accommodate his military training in the summer and subsequent FMLA leave. An April 25, 2019 Form CA-110 indicated that OWCP confirmed with appellant that documents were received

regarding his request to delay his oral hearing. OWCP, however, proceeded to schedule his hearing for June, 10, 2019 when he would be unavailable due to military deployment and FMLA leave.

As the circumstances of this case do not meet the criteria for abandonment as provided in Chapter 2.1601.6(g) of OWCP's procedures, the Board finds that appellant did not abandon his request for an oral hearing.¹

IT IS HEREBY ORDERED THAT the June 24, 2019 decision of the Office of Workers' Compensation Programs is reversed.

Issued: April 16, 2021
Washington, DC

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

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Hearings and Reviews of the Written Record*, Chapter 2.1601.6(g) (October 2011); *see also N.P.*, Docket No. 09-2263 (issued May 17, 2010).