

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

D.K., Appellant)	
)	
and)	Docket No. 20-0341
)	Issued: June 15, 2021
U.S. POSTAL SERVICE, BULK MAIL)	
CENTER, Edison, NJ, Employer)	
)	

Appearances:
James D. Muirhead, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On December 2, 2019 appellant, through counsel, filed an appeal from a January 2, 2019 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 20-0341.

The Board, having duly considered the matter, notes that the Board has jurisdiction to review final adverse decisions of OWCP issued under the Federal Employees' Compensation Act (FECA).² For final adverse decisions of OWCP issued on or after November 19, 2008, the Board's review authority is limited to appeals which are filed within 180 days from the date of issuance of OWCP's decision.³

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*; 20 C.F.R. §§ 501.2(c) and 501.3(a).

³ *Id.* at § 501.3(e) (2009).

One hundred and eighty days following the January 2, 2019 decision was July 1, 2019. As appellant did not file an appeal with the Board until December 2, 2019, more than 180 days after the January 2, 2019 OWCP decision, the Board finds that the appeal docketed as No. 20-0341 is untimely filed. On appeal, counsel asserts that he filed an appeal on behalf of appellant on March 20, 2019. He submitted an appeal brief dated March 20, 2019 and a copy of a USPS certified mail receipt. The Board finds, however, that appellant has not provided supporting documentation sufficient to establish that he filed an appeal on March 20, 2019. The USPS mail receipt does not contain a postmark date nor has he provided a return receipt acknowledging receipt by the Board. As there is no evidence in the record to demonstrate that appellant filed an appeal with the Board on March 20, 2019 the evidence of record establishes that he did not file an appeal of the January 2, 2019 OWCP decision until December 2, 2019. The Board, therefore, is without jurisdiction to review the appeal and the appeal docketed as No. 20-0341 must be dismissed.⁴ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 20-0341 is dismissed.

Issued: June 15, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

⁴ The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance." *Id.* at § 501.6(d).