

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

M.I., Appellant)	
)	
and)	Docket No. 21-0518
)	Issued: January 21, 2022
U.S. POSTAL SERVICE, POSTAL SERVICE, Detroit, MI, Employer)	
)	

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

Case Submitted on the Record

ORDER GRANTING MOTION TO REMAND

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

On February 17, 2021 appellant filed a timely appeal from a December 16, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards assigned Docket No. 21-0518.

On April 20, 2020 appellant, then a 55-year-old general clerk, filed a traumatic injury claim (Form CA-1) alleging that on March 24, 2020 she contracted COVID-19 while in the performance of duty. She asserted that on that date she directly received gloves from R.B., a coworker, who had COVID-19. Appellant indicated that she became ill on March 27, 2020 and was advised on April 7, 2020 of a positive result for an April 4, 2020 COVID-19 test. She stopped work on March 27, 2020.

Appellant submitted a May 6, 2020 report from Dr. Wael Bazzi, a Board-certified family medicine specialist, who indicated that she had recently tested positive for COVID-19. She also

¹ The Board notes that OWCP subsequently issued a March 18, 2021 decision, which vacated the December 16, 2020 merit decision. However, appellant had already filed the current appeal to the Board on February 17, 2021. OWCP may not simultaneously have jurisdiction over the same issue. Consequently, the March 18, 2021 decision is set aside as null and void. *See* 20 C.F.R. § 10.626; *see also* *A.C.*, Docket No. 18-1730 (issued July 23, 2019); *M.C.*, Docket No. 18-1278, n.1 (issued March 7, 2019); *Russell E. Lerman*, 43 ECAB 770 (1992); *Douglas E. Billings*, 41 ECAB 880 (1990)..

submitted a May 19, 2020 attending physician's report (Form CA-20) from Dr. Veronica Takov, an osteopath and a Board-certified family medicine physician, who diagnosed acute COVID-19 infection.

In a May 7, 2020 letter, appellant's direct supervisor acknowledged that appellant had contact with R.B., as alleged. In an August 5, 2020 letter, an employing establishment official acknowledged that appellant encountered up to 10 members of the public during a typical work shift. In a November 9, 2020 statement of accepted facts, OWCP accepted that on March 24, 2020 appellant had contact with a coworker who later was diagnosed with COVID-19 and that she tested positive for COVID-19 on April 4, 2020.

By decision dated December 16, 2020, OWCP denied appellant's claim that she sustained COVID-19 causally related to the accepted employment exposure. It found that she had not submitted sufficient medical evidence relating her COVID-19 diagnosis to the accepted workplace exposure.

On August 30, 2021 the Director of OWCP filed a motion to remand with the Clerk of the Appellate Boards. The Director noted that OWCP has conceded that appellant is a covered employee under the American Rescue Plan Act of 2021 (ARPA) and that she is entitled to appropriate benefits under FECA. The Director requested that the December 16, 2020 decision be set aside. The Director further advised that, upon remand, OWCP would reissue its decision on appellant's entitlement to FECA benefits for exposure to COVID-19 while in the performance of her federal duties, and authorize the payment of appropriate benefits as claimed by appellant.

The Board, having duly considered this matter, grants the Director's motion. On remand OWCP shall reissue its decision on appellant's entitlement to FECA benefits for exposure to COVID-19 while in the performance of her federal duties, and authorize the payment of appropriate benefits as claimed by appellant.

IT IS HEREBY ORDERED THAT the motion to remand is granted. The December 16, 2020 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.

Issued: January 21, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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