

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

_____)
K.F., Appellant)

and)

U.S. POSTAL SERVICE, ST LOUIS NETWORK)
DISTRIBUTION CENTER, Hazelwood, MO,)
Employer)
_____)

Docket No. 24-0530
Issued: August 29, 2024

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

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:

ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On April 22, 2024 appellant filed a timely appeal from a January 31, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0530.²

In a letter dated May 20, 2024 and received May 28, 2024, appellant requested that the appeal be withdrawn.

¹ The Board notes that, following the January 31, 2024 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

² The Board notes that during the pendency of this appeal, OWCP issued a May 31, 2024 nonmerit decision that denied appellant's request for reconsideration of its January 31, 2024 merit decision, pursuant to 5 U.S.C. § 8128(a). OWCP's May 31, 2024 decision is null and void as the Board and OWCP may not simultaneously exercise jurisdiction over the same underlying issue in a case on appeal. 20 C.F.R. §§ 501.2(c)(3), 10.626; *see e.g., M.C.*, Docket No. 18-1278 (issued March 7, 2019); *Lawrence Sherman*, 55 ECAB 359, 360 n.4 (2004); *Douglas E. Billings*, 41 ECAB 880 (1990).

The Board has duly considered the matter and concludes that appellant's request for the withdrawal of the appeal should be granted.³ Accordingly,

IT IS HEREBY ORDERED THAT appellant's request for the withdrawal of the appeal is granted. The appeal docketed as No. 24-0530 is dismissed.

Issued: August 29, 2024
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

³ The Board's decisions and orders are final upon the expiration of 30 days from the date of their issuance. 20 C.F.R. § 501.6(d).