

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

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L.C., Appellant)	
)	
and)	Docket No. 24-0458
)	Issued: June 11, 2024
DEPARTMENT OF THE NAVY, MILITARY)	
SEALIFT COMMAND, Norfolk, VA, Employer)	
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Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On March 20, 2024 appellant filed an appeal from purported December 5, 2023 and February 14, 2024 final decisions of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0458.

The Board, having duly considered the matter, notes that its jurisdiction is limited to the review of final adverse OWCP decisions issued under the Federal Employees' Compensation Act.¹ This jurisdiction encompasses any final adverse decision issued by OWCP within 180 days of the date appellant filed his appeal.²

By letters dated December 5, 2023 and February 14, 2024, OWCP notified appellant that it had been informed that he failed to cooperate with vocational rehabilitation efforts. It explained that pursuant to 5 U.S.C. § 8113(b), if an individual without good cause fails to apply for and undergo vocational rehabilitation when directed, it may prospectively reduce the compensation based on what likely would have been the individual's wage-earning capacity had they not failed to apply for and undergo vocational rehabilitation. OWCP advised that if, during the 30-day

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

² 20 C.F.R. § 501.3(e) provides in pertinent part: "Any notice of appeal must be filed within 180 days from the date of issuance of a decision of the OWCP."

period, he did not comply with the instruction to undergo the rehabilitation effort, or did not show good cause for nonparticipation, the rehabilitation effort would be terminated, and action would be initiated to reduce his compensation to reflect his probable wage-earning capacity as a customer complaint clerk.

The December 5, 2023 and February 14, 2024 letters do not constitute final adverse decisions of OWCP regarding reduction of appellant's compensation to reflect his probable wage-earning capacity due to refusal to cooperate with vocational rehabilitation efforts. They are interlocutory notices.

Section 501.2(c)(2) of the Board's *Rules of Procedure* provides: "There will be no appeal with respect to any interlocutory matter decided (or not decided) by OWCP during the pendency of a case."³ Consequently, the case record as transmitted to the Board does not contain a final adverse decision of OWCP issued within 180 days from the date of docketing of the current appeal. As there is no final adverse decision issued by OWCP over which the Board may properly exercise jurisdiction, the Board concludes that the appeal docketed as No. 24-0458 must be dismissed.⁴ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 24-0458 is dismissed.

Issued: June 11, 2024
Washington, DC

Janice B. Askin, 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 *Id.* at § 501.2(c)(2).

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).