

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

A.T., Appellant)

and)

DEPARTMENT OF THE AIR FORCE,)
TINKER AIR FORCE BASE, OK, Employer)

Docket No. 22-0168
Issued: December 1, 2021

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

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:

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

On November 8, 2021 appellant filed an appeal from an April 9, 2020 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 22-0168.

The Board has duly considered the matter and notes that the Board has jurisdiction to review final adverse decisions of OWCP issued under the Federal Employees' Compensation Act.¹ 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.²

The 180th day following the April 9, 2020 decision was October 6, 2020. As appellant did not file an application for review with the Board until November 8, 2021, more than 180 days after the April 9, 2020 OWCP decision, the Board finds that the appeal docketed as No. 22-0168 is untimely filed. The Board is without jurisdiction to review the appeal.

¹ 5 U.S.C. § 8149; 20 C.F.R. §§ 501.2(c) and 501.3(a) (2009).

² *Id.* at § 501.3(e).

On appeal appellant requests that the 180-day time limit for filing an appeal be extended “due to COVID.” Pursuant to the Board’s *Rules of Procedure*, “The Board maintains discretion to extend the time period for filing an appeal if an applicant demonstrates compelling circumstances. Compelling circumstances means circumstances beyond the Appellant’s control that prevent the timely filing of an appeal and does not include any delay caused by the failure of an individual to exercise due diligence in submitting a notice of appeal.”³ Appellant only generally asserted that the COVID-19 pandemic was a complicating factor that prevented the timely filing of the appeal. He has not submitted evidence or argument sufficient to establish the inability to file a timely appeal. For this reason, the Board finds that this argument is insufficient to establish compelling circumstances as contemplated by the Board’s implementing regulation.⁴ Therefore, the appeal will be dismissed.

The Board’s decisions and orders are “final upon the expiration of 30 days from the date of their issuance.”⁵

IT IS HEREBY ORDERED THAT the appeal docketed as No. 22-0168 is dismissed.

Issued: December 1, 2021
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

³ *Id.*

⁴ *Id.*; see also *L.M.*, Docket No. 21-1371 (issued October 26, 2021); *S.S.* Docket No. 10-1135 (issued June 23, 2010).

⁵ *Id.* at § 501.6(d).