

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-3165

EDWIN FONG,

Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,

Respondent.

Petition for review of the Merit Systems Protection Board in SF0752080497-I-1.

ON MOTION

ORDER

The United States Postal Service moves without opposition to reform the official caption to designate the Merit Systems Protection Board as respondent.

Edwin Fong filed an appeal at the Board alleging that the Postal Service improperly reassigned him and failed to follow applicable reduction-in-force regulations. Additionally, Fong alleged that his subsequent acceptance of a support specialist position was an involuntary reduction-in-grade. The Board determined that it lacked jurisdiction over Fong's claims because the reassignment and his acceptance of another position with the same pay and grade were not appealable adverse actions.

Pursuant to 5 U.S.C. § 7703(a)(2), the Board is designated as the respondent when the Board's decision concerns the procedure or jurisdiction of the Board. In this

case, the Board dismissed the appeal for lack of jurisdiction. Thus, the Board is the proper respondent in this petition for review.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion is granted. The revised official caption is reflected above.
- (2) The Board should calculate its brief due date from the date of filing of this order.

FOR THE COURT

JUL 23 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Edwin Fong
Austin M. Fulk, Esq.
Joyce G. Friedman, Esq.

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

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JUL 23 2009

**JAN HORBALY
CLERK**