

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of THOMAS R. FLETCHER and TENNESSE VALLEY AUTHORITY,  
CUMBERLAND FOSSIL PLANT, Cumberland City, Tenn.

*Docket No. 97-2224; Submitted on the Record;  
Issued April 1, 1999*

---

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs' denial of appellant's request for reconsideration and merit review pursuant to section 8128 of the Federal Employees' Compensation Act constituted an abuse of discretion.

On December 12, 1994 appellant, then a 37-year-old electrician, filed a notice of traumatic injury and claim alleging that on October 11, 1994 he sustained loss of movement and capacity in his right arm and shoulder and cramps when an electric current ran through his body while in the performance of duty. In a decision dated May 18, 1995, the Office denied appellant's claim on the grounds that the medical evidence did not establish that appellant sustained an injury as alleged. By decision dated April 18, 1996, an Office hearing representative affirmed the Office's May 18, 1995 merit decision. In a decision dated April 21, 1997, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted was not sufficient to warrant merit review.

The Board has duly reviewed the entire case record on appeal and finds that the Office properly denied appellant's request for reconsideration.<sup>1</sup>

Under 20 C.F.R. § 10.138(b)(1), a claimant may obtain review of the merits of his claim by showing that the Office erroneously applied or interpreted a point of law, advancing a point of law or fact not previously considered by the Office, or submitting relevant and pertinent evidence not previously considered by the Office. Section 10.138(b)(2) provides that when an application for review of the merits of a claim does not meet at least one of these requirements,

---

<sup>1</sup> The Board's jurisdiction to consider and decide appeals from final decisions of the Office extends only to those final decisions issued within one year prior to the filing of the appeal. As appellant filed his appeal with the Board on June 18, 1997, the only decision before the Board is the Office's April 21, 1997 decision; *see* 20 C.F.R. §§ 501.2(c), 501.3(d)(2).

the Office will deny the application for review without reviewing the merits of the claim.<sup>2</sup> Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.<sup>3</sup> Evidence that does not address the particular issue involved does not constitute a basis for reopening a case.<sup>4</sup>

On reconsideration, appellant submitted evidence which he believed established that he sustained an injury while in the performance of duty on October 11, 1994, including letters he sent to the Office of the Inspector General (OIG), the Federal Bureau of Investigation (FBI), and the employing establishment, copies of federal regulations related to the employing establishment and OIG, letters to the plant manager and OIG at the employing establishment, a copy of a grievance form he filed related to his claim and a tape purportedly of appellant, a plant manager and an OIG inspector. None of the evidence submitted by appellant is relevant to the issue before the Office, *i.e.*, whether appellant sustained an injury as alleged. While the evidence may be relevant to establishing that appellant was exposed to electrical current at the time, place and in the manner alleged, that fact has already been accepted. Medical evidence is necessary to establish that appellant sustained an injury as alleged and appellant has not submitted any such relevance with his request for reconsideration. Therefore, appellant has not established that merit review of his claim was warranted and the Office properly denied his request for reconsideration.

The decision of the Office of Workers' Compensation Programs dated April 21, 1997 is hereby affirmed.

Dated, Washington, D.C.  
April 1, 1999

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Bradley T. Knott  
Alternate Member

---

<sup>2</sup> 20 C.F.R. § 10.138(b)(2).

<sup>3</sup> *Sandra F. Powell*, 45 ECAB 877 (1994); *Eugene F. Butler*, 36 ECAB 393 (1984); *Bruce E. Martin*, 35 ECAB 1090 (1984).

<sup>4</sup> *Dominic E. Coppo*, 44 ECAB 484 (1993); *Edward Matthew Diekemper*, 31 ECAB 224 (1979).