

track of her time, work in a conference room, and account for her whereabouts. The Board noted that appellant had implicated a compensable factor of employment -- the stress of her work duties themselves -- but found that the reports of appellant's attending clinical psychologist, Randall Wolthuis, Ph.D., were not sufficient to establish the claim because the factors cited in his reports either were not accepted to have occurred or were not compensable factors of employment.¹ The facts and history of the case are hereby incorporated by reference.

By letter dated July 19, 2004, appellant's attorney requested reconsideration, and submitted reports from Dr. Wolthuis dated May 17, 2004 and July 22, 2003. In the May 17, 2004 report, written in response to the denial of appellant's application for disability retirement by the Office of Personnel Management (OPM), Dr. Wolthuis stated that appellant's "depression and anxiety symptoms were severe enough to contribute to the alleged job deficiencies cited by her employer and supervisor," and that her symptoms were exacerbated by the "stressful conditions she was under" and "the ongoing mistreatment by her supervisors." In the July 22, 2003 report, prepared in connection with appellant's application for disability retirement, Dr. Wolthuis stated that his first professional contact with appellant was on June 3, 1999, when she presented with symptoms of anxiety and depression after a disciplinary action and involuntary transfer to the criminal division, which he characterized as difficult. Dr. Wolthuis stated that in April 2001 appellant again complained of persistent symptoms of anxiety and depression, and described "what sounded to me as unduly harsh and abusive treatment by her supervisors following a criminal trial," including requirements to log in every 15 minutes and report her whereabouts to her supervisor every morning, confinement to a conference room, and having been personally escorted when using the bathroom. Dr. Wolthuis concluded that appellant's condition might never allow her to return to work at the employing establishment, since exposure to her former work environment and former supervisors triggered extreme anxiety, and that it was his belief "that her depression and anxiety symptoms were directly due to what appears to be very harsh and inappropriate treatment on the part of her supervisors."

By decision dated August 5, 2004, the Office found that the evidence submitted on reconsideration was insufficient to warrant further merit review.

LEGAL PRECEDENT

Section 8128(a) of the Federal Employees' Compensation Act vests the Office with discretionary authority to determine whether it will review an award for or against compensation:

"The Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application. The Secretary, in accordance with the facts found on review may --

- (1) end, decrease, or increase the compensation awarded; or
- (2) award compensation previously refused or discontinued."

¹ Docket No. 03-840 (issued July 30, 2003).

Under 20 C.F.R. § 10.606(b)(2), a claimant may obtain review of the merits of his or her claim by showing that the Office erroneously applied or interpreted a specific point of law, by advancing a relevant legal argument not previously considered by the Office, or by submitting relevant and pertinent new evidence not previously considered by the Office. Section 10.608(b) provides that when an application for review of the merits of a claim does not meet at least one of these three requirements the Office will deny the application for review without reviewing the merits of the claim. 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.²

ANALYSIS

Appellant's July 19, 2004 request for reconsideration did not contend that the Office erroneously applied or interpreted a specific point of law, nor did it advance a relevant legal argument not previously considered by the Office. Instead, it relied on the submission of new evidence not previously considered by the Office, specifically the medical reports from Dr. Wolthuis, an attending psychologist. The May 17, 2004 report indicated that appellant's depressive symptoms were exacerbated by "stressful circumstances" and "ongoing mistreatment by her supervisors." This opinion is repetitive of Dr. Wolthuis' prior opinion on causal relation, but less specific on the factors of employment. The July 22, 2003 report cited to the same factors of employment that the Board found did not occur or were not compensable factors of employment. It repeated, word for word, the opinion on causal relation contained in his January 15, 2003 report, which was found by the Board to be insufficient to meet appellant's burden of proof.

CONCLUSION

Because the evidence submitted by appellant with her July 19, 2004 request for reconsideration repeated or duplicated evidence already in the case record, this evidence has no evidentiary value and does not constitute a basis for reopening appellant's case.

² *Eugene F. Butler*, 36 ECAB 393 (1984).

ORDER

IT IS HEREBY ORDERED THAT the August 5, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 26, 2005
Washington, DC

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member