

¹ Docket No. 06-1771 (issued March 27, 2007).

April 2, 2005. The Office denied appellant's claim on the grounds that he did not establish his allegations of discrimination or error and abuse by employing establishment personnel. The Board affirmed, finding that appellant submitted no proof of administrative error or abuse. The facts of this case as set forth in the Board's prior decision are hereby incorporated by reference.

On July 18, 2007 appellant wrote to the Office as follows: "The letter dated October 19, 2006 I never received until Manager Mr. Joe Eddin told me go home and gave me a copy of the letter November 2, 2006. The request for reconsideration that I made is you may wish to know that." With this request the Office received a copy of an October 19, 2006 denial of temporary light duty.

In a decision dated September 26, 2007, the Office denied appellant's request for reconsideration on the grounds that his letter neither raised substantive legal questions nor included new and relevant evidence.

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides that the Office may review an award for or against payment of compensation at any time on its own motion or upon application.² The employee shall exercise this right through a request to the district Office. The request, along with the supporting statements and evidence, is called the "application for reconsideration."³

An employee (or representative) seeking reconsideration should send the application for reconsideration to the address as instructed by the Office in the final decision. The application for reconsideration, including all supporting documents, must be in writing and must set forth arguments and contain evidence that either: (1) shows that the Office erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by the Office; or (3) constitutes relevant and pertinent new evidence not previously considered by the Office.⁴

An application for reconsideration must be sent within one year of the date of the Office decision for which review is sought.⁵ The one-year period begins on the date of the original decision. However, a right to reconsideration within one year accompanies any subsequent merit decision on the issues. This includes any hearing or review of the written record decision, any denial of modification following a reconsideration, any merit decision by the Board, and any

² 5 U.S.C. § 8128(a).

³ 20 C.F.R. § 10.605 (1999).

⁴ *Id.* at § 10.606.

⁵ *Id.* at § 10.607(a).

merit decision following action by the Board, but does not include prerecoupment hearing decisions.⁶

A timely request for reconsideration may be granted if the Office determines that the employee has presented evidence or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits. Where the request is timely but fails to meet at least one of these standards, the Office will deny the application for reconsideration without reopening the case for a review on the merits.⁷

ANALYSIS

Appellant filed his July 18, 2007 request for reconsideration within one year of the Board's March 27, 2007 merit decision affirming the denial of his claim. His request is therefore timely. The question for determination is whether this request meets at least one of the three standards for obtaining a merit review of appellant's case.

The Board finds that appellant's request does not meet at least one of these standards. It does not show that the Office erroneously applied or interpreted a specific point of law. It does not advance a relevant legal argument not previously considered by the Office. It contains no evidence that constitutes relevant and pertinent new evidence not previously considered by the Office. Appellant stated only that he did not receive the October 19, 2006 denial of temporary light duty until a manager told him to go home on November 2, 2006. This simple statement, and the October 19, 2006 denial itself, have no tendency whatsoever to make a compensable factor of employment any more probable than it was when the Board reviewed the merits of his case on March 27, 2007. The Board therefore finds that the statement and evidence are irrelevant to the grounds upon which the Board affirmed the denial of his claim. The Board will now affirm the Office's September 26, 2007 decision denying appellant's request for reconsideration.

CONCLUSION

The Board finds that the Office properly denied appellant's July 18, 2007 request for reconsideration.

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.3.b(1) (January 2004) (emphasis deleted).

⁷ 20 C.F.R. § 10.608 (1999).

ORDER

IT IS HEREBY ORDERED THAT the September 26, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 8, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board