

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

ANITA L. HILL, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Los Angeles, CA, Employer**

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**Docket No. 05-1461
Issued: October 26, 2005**

Appearances:
Daryl Brown, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On June 30, 2005 appellant filed a timely appeal of a March 31, 2005 decision of the Office of Workers' Compensation Programs, finding that her request for reconsideration was insufficient to warrant merit review of the claim. Pursuant to 20 C.F.R. § 501.3, the Board's jurisdiction is limited to decisions issued within one year of the filing of the appeal. Since there is no decision on the merits within one year of this appeal, the Board does not have jurisdiction over the merits of the claim.

ISSUE

The issue is whether the Office properly determined that appellant's request for reconsideration was insufficient to warrant merit review of the claim pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On August 10, 2002 appellant, then a 50-year-old clerk, filed an occupational disease claim (Form CA-2) alleging that due to "unrelenting stress" at work she sustained elevated blood

pressure and a cerebral aneurysm in September 2001. In an accompanying statement, appellant indicated that she had an employment-related back condition since 1988. She alleged that she was harassed and verbally abused by management with respect to handicapped parking and was assigned work contrary to her physical restrictions.

By decision dated February 20, 2003, the Office denied the claim for compensation, finding that appellant had not established compensable employment factors as contributing to an injury. Appellant requested a hearing before an Office hearing representative, which was held on November 19, 2003. By decision dated February 6, 2004, the hearing representative affirmed the February 20, 2003 decision, finding that appellant had not substantiated a compensable work factor.

In a letter dated December 31, 2004, appellant requested reconsideration of her claim. She argued that the Office had denied her due process and erred in denying her claim. Appellant stated that her stress, high blood pressure and consequential cerebral aneurysm arose from being assigned duties she was unable to perform and the Office had misconstrued her consequential injury. In a letter dated January 3, 2005, appellant contended that she had a permanent injury, the Office had denied reasonable accommodation, and it had violated her rights as a handicapped employee.

By decision dated March 31, 2005, the Office determined that appellant's request for reconsideration was insufficient to warrant further merit review of her claim.

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.”

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.¹

¹ *Eugene F. Butler*, 36 ECAB 393 (1984).

ANALYSIS

In the present case, appellant filed a claim alleging that she sustained emotional stress, with resulting high blood pressure and a cerebral aneurysm, as a result of her federal employment. Appellant alleged harassment and administrative error, but the claim was denied on the grounds that appellant did not establish a compensable work factor.

In order to warrant reopening her claim for a review of the merits, she must meet one of the requirements of section 10.606(b)(2). On reconsideration, appellant did not submit new and relevant evidence with respect to a compensable work factor. Appellant alleged that she had been denied due process, without providing a valid legal argument or showing that the Office erroneously applied or interpreted a specific point of law.² Appellant reiterated her belief that the employing establishment had committed administrative errors and the Office improperly denied her claim, but she did not meet any of the standards of section 10.606(b)(2). Accordingly, the Board finds that the Office properly denied the reconsideration request without merit review of the claim.

CONCLUSION

The Board finds that appellant did not meet any of the requirements of 20 C.F.R. § 10.606(b)(2) and therefore the Office properly denied her request for reconsideration without review of the merits of the claim.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 31, 2005 is affirmed.

Issued: October 26, 2005
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

² A legal premise must have a reasonable color of validity to require reopening the case for merit review. *See Charles A. Jackson*, 53 ECAB 671 (2002); *Constance G. Mills*, 40 ECAB 317 (1988).