

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of THOMAS A. MONAHAN and U.S. POSTAL SERVICE,  
POST OFFICE, Marysville, CA

*Docket No. 98-676; Submitted on the Record;  
Issued September 24, 1999*

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DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's July 18, 1997 request for reconsideration.

In a decision dated August 5, 1996, the Office denied appellant's claim that he sustained an emotional condition while in the performance of his duties. The Office found that none of the incidents to which appellant attributed his condition were considered to have arisen in and out of the performance of his duties. The Office further found that the medical evidence failed to relate any specific employment factor to appellant's emotional condition.

On July 18, 1997 appellant requested reconsideration. To support his request, he pointed out a number of facts and submitted a number of exhibits, including documentation from his Equal Employment Opportunity (EEO) case.

In a decision dated September 24, 1997, the Office denied appellant's July 18, 1997 request for reconsideration. The Office found that the evidence submitted in support thereof was repetitious and cumulative and insufficient to warrant review of the prior decision.

The Board finds that the Office properly denied appellant's request.

Section 10.138(b)(1) of Title 20 of the Code of Federal Regulations provides that a claimant may obtain review of the merits of the claim by: (1) showing that the Office erroneously applied or interpreted a point of law; or (2) advancing a point of law or a fact not previously considered by the Office; or (3) submitting relevant and pertinent evidence not previously considered by the Office.<sup>1</sup> 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 three requirements, the Office will deny the application for review without reviewing the merits of the claim.<sup>2</sup> Evidence that

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<sup>1</sup> 20 C.F.R. § 10.138(b)(1).

repeats or duplicates evidence already in the record has no evidentiary value and constitutes no basis for reopening a case.<sup>3</sup> Evidence that does not address the particular issue involved also constitutes no basis for reopening a case.<sup>4</sup>

Appellant has not attempted to show that the Office erroneously applied or interpreted a point of law, nor has he attempted to advance a point of law or a fact not previously considered by the Office. Accordingly, he may not obtain a merit review of his claim based on the first or second requirement set forth above. Appellant, instead, pointed out a number of facts and submitted a number of exhibits, including documentation from his EEO case. This evidence, however, is not relevant and pertinent evidence not previously considered by the Office. The Office denied appellant's claim on the grounds that the incidents to which he attributed his emotional condition were not considered to have arisen in and out of the performance of his duties. It is well established that an employee's emotional reaction to an administrative or personnel matter is generally not compensable. Nonetheless, error or abuse by the employing establishment in what would otherwise be an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in the administration of a personnel matter, may afford coverage.<sup>5</sup> Appellant's reaction to the actions of his supervisors is therefore a matter that generally falls outside the scope of coverage. To establish that he sustained an emotional condition while in the performance of duty, he must submit probative evidence substantiating that the actions of his supervisors were in fact erroneous or abusive or that harassment did in fact occur. The evidence appellant submitted to support his request for reconsideration does not substantiate error or abuse or harassment and is repetitious and cumulative of evidence previously considered, as the Office found.<sup>6</sup> Accordingly, the Board finds that appellant may not obtain a merit review of his claim based on the third requirement above.

As appellant's July 18, 1997 request for reconsideration fails to meet at least one of the three requirements for obtaining a merit review of his claim, the Board finds that the Office properly denied that request.

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<sup>2</sup> *Id.* § 10.138(b)(2).

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

<sup>4</sup> *Jimmy O. Gilmore*, 37 ECAB 257 (1985); *Edward Matthew Diekemper*, 31 ECAB 224 (1979).

<sup>5</sup> *Norman A. Harris*, 42 ECAB 923 (1991); *Thomas D. McEuen*, 42 ECAB 566 (1991).

<sup>6</sup> When appellant made his request for reconsideration, he indicated that his EEO claim was still pending a final determination.

The September 24, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
September 24, 1999

George E. Rivers  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member