

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JEFFE DESADIER and U.S. POSTAL SERVICE,
POST OFFICE, Gary, IN

*Docket No. 99-2318; Submitted on the Record;
Issued February 13, 2001*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's request for a hearing.

The only Office decision before the Board on this appeal is the Office's July 30, 1998 decision finding that appellant was not entitled to a hearing. Since more than one year elapsed between the date of the Office's most recent merit decision on May 13, 1998 and the filing of appellant's appeal on July 6, 1999, the Board lacks jurisdiction to review the merits of appellant's claim.¹

Section 8124(b)(1) of the Federal Employees' Compensation Act,² concerning a claimant's entitlement to a hearing before an Office hearing representative, states: "Before review under section 8128(a) of this title, a claimant for compensation not satisfied with a decision of the Secretary under subsection (a) of this section is entitled, on request made within 30 days after the date of the issuance of the decision, to a hearing on his claim before a representative of the Secretary."

The Board finds that the Office properly denied appellant's request for a hearing. The Office properly determined that appellant was not entitled to a hearing as a matter of right since appellant's May 28, 1998 request for a hearing was made after a reconsideration of her case was done pursuant to section 8128(a) of the Act. The Office also properly exercised its discretion by concluding that the issue in the case could equally well be addressed by requesting

¹ 20 C.F.R. § 501.3(d)(2) requires that an application for review by the Board be filed within one year of the date of the Office final decision being appealed.

² 5 U.S.C. § 8124(b)(1).

reconsideration and submitting new evidence establishing that appellant did not refuse suitable employment.³

The decision of the Office of Workers' Compensation Programs dated July 30, 1998 is affirmed.

Dated, Washington, DC
February 13, 2001

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

³ *Sandra F. Powell*, 45 ECAB 877, 890 (1994).