

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CAROLYN L. SCOTT and DEPARTMENT OF THE TREASURY,  
CUSTOMS SERVICE TRAINING & EMPLOYEE RELATIONS,  
Miami, FL

*Docket No. 01-436; Submitted on the Record;  
Issued September 18, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
BRADLEY T. KNOTT

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

This case has previously been before the Board on appeal. In its March 26, 1998 decision, the Board found that appellant had failed to meet her burden of proof in establishing that she sustained a recurrence of disability on August 27, 1993 causally related to her April 27, 1989 employment injury.<sup>1</sup> The facts and circumstances of the case as set out in the Board's prior decision are adopted herein by reference.

Following the Board's March 26, 1998 decision, appellant requested an oral hearing before the Branch of Hearings and Review. By decision dated August 17, 2000, the Branch of Hearings and Review denied appellant's request on the grounds that there was no jurisdiction to review decisions of the Board. The Branch of Hearings and Review exercised its discretion and determined that appellant could pursue her claim through the reconsideration process.

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

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

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<sup>1</sup> Docket No. 96-1434.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

before a representative of the Secretary.”<sup>3</sup> The Act also provides that decisions of the Board on appeal taken from claims of employees are final.<sup>4</sup>

In this case, the Branch of Hearings and Review properly informed appellant that the decisions of the Board are final and that the Office may not review such decisions. Therefore, the Office properly found that the case was not in posture for a hearing since the Board had previously rendered a decision regarding the issue of whether appellant established a recurrence of disability and since appellant had not requested reconsideration before the Office following the issuance of the Board’s decision.<sup>5</sup>

The Branch of Hearings and Review properly advised appellant that she might request reconsideration pursuant to 5 U.S.C. § 8128(a) with regard to the issues in her claim.

The August 17, 2000 decision of the Office of Workers’ Compensation Programs is hereby affirmed.

Dated, Washington, DC  
September 18, 2001

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

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<sup>3</sup> 5 U.S.C. § 8124(b)(1).

<sup>4</sup> 5 U.S.C. § 8149.

<sup>5</sup> *Albert Zerega*, 45 ECAB 860, 863 (1994).