

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ELIZABETH L. RICKS and U.S. POSTAL SERVICE,  
POST OFFICE, Chicago, IL

*Docket No. 01-1137; Submitted on the Record;  
Issued January 10, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
PRISCILLA ANNE SCHWAB

The issue is whether the issue is whether the refusal of the Office of Workers' Compensation Programs to reopen appellant's case for further consideration constituted an abuse of discretion.

The Board's jurisdiction to consider and decide appeals from a final decision of the Office extends only to those final decisions issued within one year prior to the filing of the appeal.<sup>1</sup> Because appellant filed the appeal with the Board on March 12, 2001, the only decision before the Board is the Office's December 5, 2000 decision, denying appellant's request for reconsideration.

To require the Office to reopen a case for merit review under section 8128(a) of Federal Employees' Compensation Act,<sup>2</sup> the Office's regulations provide that the application for reconsideration, including all supporting documents, 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.<sup>3</sup> A timely request for reconsideration may be granted if the Office determines that the employee has presented evidence and/or arguments that meets at least one of the standards described in section 10.606(b)(2).<sup>4</sup>

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<sup>1</sup> *Oel Noel Lovell*, 42 ECAB 537 (1991); 20 C.F.R. §§ 501.2(c), 501.3(d)(2).

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*; § 8128(a).

<sup>3</sup> Section 10.606(b)(2)(i-iii).

<sup>4</sup> Section 10.608(a).

The Board has duly considered the case record and finds that the Office acted within its discretion in refusing to reopen appellant's case for further consideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a), did not constitute an abuse of discretion.

On September 16, 1999 appellant, then a 48-year-old distribution window clerk, filed a claim for "traumatic emotional stress and anguish," stating that on September 9, 1999 in the presence of others, her supervisor harassed, badgered, threatened and verbally abused her. Appellant stopped working on September 10, 1999. By decision dated November 30, 1999, the Office denied appellant's claim, stating that she failed to establish that she sustained an emotional condition while in the performance of duty.

By letter dated November 30, 2000, appellant requested reconsideration of the Office's decision.

By decision dated December 5, 2000, the Office denied appellant's request for reconsideration.

The only evidence appellant presented with her request for reconsideration was a letter from the employing establishment dated July 31, 2000 informing her that her retirement deductions had been certified and providing other information and instructions. This letter is not relevant to appellant's claim for an emotional condition.<sup>5</sup> Inasmuch as appellant did not show that the Office erroneously applied or interpreted a specific point of law, and did not advance a relevant legal argument or present relevant and pertinent new evidence not previously considered by the Office, she has failed to support her request for reconsideration. The Office acted within its discretion in denying her request.

The December 5, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
January 10, 2002

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Priscilla Anne Schwab  
Alternate Member

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<sup>5</sup> See *Bernard Snowden*, 49 ECAB 144, 147 (1997).