



## **FACTUAL HISTORY**

This is the second appeal in this case before the Board. By decision dated September 15, 2006, the Board affirmed the Office's May 2, 2006 nonmerit decision denying appellant's request for reconsideration of the hearing representative's March 7, 2005 decision denying her traumatic injury claim.<sup>2</sup> The findings of fact and conclusions of law are incorporated herein by reference.

On March 6, 2004 appellant filed a traumatic injury claim alleging that on February 18, 2004 she injured her back while loading her car in the parking lot, when she was hit by a runaway cart. In a merit decision dated April 30, 2004, the Office denied her claim, finding that the evidence was insufficient to establish that she had sustained an injury as alleged. The Office found that appellant had failed to establish the fact of injury. By decision dated March 7, 2005, an Office hearing representative affirmed the Office's April 30, 2004 decision. By decision dated May 2, 2006, the Office denied appellant's request for reconsideration, finding that the evidence submitted was insufficient to warrant merit review. Appellant requested review by the Board of the Office's nonmerit decision denying her request for reconsideration. By decision dated September 15, 2006, the Board affirmed the Office's refusal to conduct a merit review of the case.

On February 4, 2007 appellant requested reconsideration. Referencing enclosed documents, appellant noted that line 28 of the CA-1 form indicated that she was injured in the performance of duty. She stated that the February 24, 2004 trip report was filed and verified by her supervisor. Appellant noted that, in his March 1, 2004 medical report, her physician stated that she sustained a lumbar strain and a knee strain at work. She submitted four previously-submitted documents: a March 1, 2004 report of workability from a Dr. Robert E. Lager; a diagram of the employing establishment parking lot; a March 19, 2004 rural carrier trip report and a copy of the March 8, 2004 CA-1.<sup>3</sup> In a nonmerit decision dated March 6, 2007, the Office denied appellant's request for reconsideration, finding that she had neither raised substantive legal questions nor included new and relevant evidence.

On March 12, 2007 appellant again requested reconsideration. She contended that the contents of the March 8, 2004 CA-1, wherein her supervisor stated that her injury occurred in the performance of duty, established her claim. Appellant stated that the CA-1 was subsequently amended by her supervisor to reflect that the injury could not have occurred as alleged. By decision dated March 22, 2007, the Office denied appellant's request for further merit review.

---

<sup>2</sup> Docket No. 06-1323 (issued September 15, 2006).

<sup>3</sup> The Board notes that the record contains a CA-1 dated March 8, 2004, received by the Office on March 24, 2004, wherein appellant's supervisor checked the "yes" box indicating that appellant was injured in the performance of duty. The record also contains an amended CA-1 dated March 8, 2004, received by the Office on March 17, 2004, in which appellant's supervisor stated that appellant was not injured in the performance of duty and that the injury could not have happened in the manner stated.

## LEGAL PRECEDENT

The Federal Employees' Compensation Act<sup>4</sup> provides that the Office may review an award for or against compensation upon application by an employee (or his or her representative) who receives an adverse decision. The employee may obtain this relief through a request to the district Office. The request, along with the supporting statements and evidence, is called the "application for reconsideration."<sup>5</sup>

The application for reconsideration 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>6</sup>

A timely request for reconsideration may be granted if the Office determines that the employee has presented evidence and/or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits.<sup>7</sup> Where the request is timely but fails to meet at least one of these standards, the Office will deny the application for reconsideration without reopening the case for a review on the merits.<sup>8</sup>

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.<sup>9</sup>

## ANALYSIS

Appellant has not alleged or shown in either her February 4 or March 12, 2007 requests for reconsideration that the Office erroneously applied or interpreted a specific point of law; nor has she advanced a relevant legal argument not previously considered by the Office. She merely disagreed with the Office's decision. Appellant contended that the statement made by her supervisor on the original CA-1, that her injury occurred in the performance of duty, was sufficient to establish her claim. She stated that the CA-1 was subsequently amended by her supervisor to reflect that the injury could not have occurred as alleged. The Board notes that the CA-1 forms of record, as well as appellant's objections concerning their contents, were previously received and considered by the Office in its denial of appellant's claim.<sup>10</sup> The Board finds that appellant is not entitled to a review of the merits of her claim based on the first and second above-noted requirements under section 10.606(b)(2).

---

<sup>4</sup> 5 U.S.C. § 8101 *et seq.*

<sup>5</sup> 20 C.F.R. § 10.605.

<sup>6</sup> 20 C.F.R. § 10.606.

<sup>7</sup> *Donna L. Shahin*, 55 ECAB 192 (2003).

<sup>8</sup> 20 C.F.R. § 10.608 .

<sup>9</sup> *See Helen E. Paglinawan*, 51 ECAB 591 (2000).

<sup>10</sup> The Board notes that appellant raised the issue of a discrepancy in CA-1's at the December 13, 2004 hearing. Appellant's allegations were considered by the Office hearing representative in his March 7, 2005 decision.

In support of her February 4, 2007 request, appellant submitted copies of four documents previously received and considered by the Office, including a March 1, 2004 report of workability from Dr. Lager; a diagram of the employing establishment parking lot; a March 19, 2004 rural carrier trip report; and a copy of the March 8, 2004 CA-1. As the documents are duplicative, they have no evidentiary value,<sup>11</sup> and do not constitute new evidence not previously considered by the Office.<sup>12</sup> Appellant submitted no additional evidence in support of her March 12, 2007 request for reconsideration. Therefore she is not entitled to a review of the merits of her claim based on the third requirement under section 10.606(b)(2).

The Board finds that the Office properly determined that appellant was not entitled to a review of the merits of her claim pursuant to any of the three requirements under section 10.606(b)(2) and properly denied her requests for reconsideration.

### **CONCLUSION**

The Board finds that the Office properly refused to reopen appellant's case for further review of the merits of her claim pursuant to 5 U.S.C. § 8128(a).

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated March 22 and 6, 2007 are affirmed.

Issued: September 17, 2007  
Washington, DC

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

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

---

<sup>11</sup> See *Manuel Gill*, 52 ECAB 282 (2001).

<sup>12</sup> See *Susan A. Filkins*, 57 ECAB \_\_\_\_ (Docket No. 06-868, issued June 16, 2006).