United States Department of Labor
Employees' Compensation Appeals Board

K.L., Appellant	)))	
and	))	**Docket No. 08-468**
	)	**Issued: June 4, 2008**
U.S. POSTAL SERVICE, Guntersville, AL,	)	
Employer	))	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On December 5, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' February 27, 2007 nonmerit decision denying her request for reconsideration. Pursuant to C.F.R. §§ 501.2(c) and 501.3, the Board does not have jurisdiction over the merits of appellant's claim.

ISSUE

The issue is whether the Office properly denied appellant's request for reconsideration.

FACTUAL HISTORY

On July 31, 2006 appellant, then a 37-year-old clerk, filed an occupational disease claim alleging that she sustained carpal tunnel as a result of repetitive hand, wrist and forearm movement in the performance of duty. Reports dated June 12, 13 and July 12, 2006 were submitted from Dr. Pamela Quinn, a Board-certified neurologist. Appellant also submitted a September 20, 2006 letter arguing that her condition was related to her employment.

In a November 16, 2006 merit decision, the Office denied appellant's claim finding that she had not submitted sufficient medical evidence to establish that her medical condition was causally related to the established work-related activities.

In a February 5, 2007 letter, appellant requested reconsideration arguing that her claim should be accepted as she has to have injections to control her pain and allow her to work. No additional medical information was submitted.

In a February 27, 2007 nonmerit decision, the Office denied appellant's request for reconsideration finding that she did not raise substantive legal questions or include new and relevant evidence which would warrant a review of the prior merit decision.

LEGAL PRECEDENT

To require the Office to reopen a case for merit review under section 8128 (a) of the Federal Employees' Compensation Act, 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.[1]

ANALYSIS

The Office is required to reopen a case for merit review if appellant demonstrates that the Office erroneously applied a specific point of law, puts forth relevant and pertinent new evidence or presents a new relevant legal argument. Appellant did not argue that the Office erroneously applied a point of law nor did she present a new relevant legal argument. She merely alleged that she continued to have pain and undergo treatment for pain. This is not a legal argument which is relevant to the issue of causal relationship. Appellant did not submit any medical evidence after the Office issued its November 16, 2006 merit decision therefore she did not submit relevant and pertinent new evidence. She is not entitled to review of the merits of her claim based any of the requirements under section 10.606(b)(2).

As appellant is not entitled to a review of the merits of her claim, the Board finds that the Office properly refused to reopen her case for further review of the merits of her claim.

CONCLUSION

The Board finds that the Office properly denied merit review.

---

[1] 20 C.F.R. § 10.606(b)(2)(iii) (2004).

ORDER

IT IS HEREBY ORDERED THAT the February 27, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 4, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board