U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VERA D. BLANCHARD and U.S. POSTAL SERVICE,
POST OFFICE, Liberty, Tex.

Docket No. 96-2612; Submitted on the Record;
Issued August 18, 1998

DECISION AND ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant established that she sustained an injury in the performance of duty.

On February 7, 1996 appellant, then 62-year-old rural carrier, filed a notice of traumatic injury, claiming that she hurt her right hip, "possibly pinching a nerve," on December 16, 1995 when she tripped and fell over some packages on the floor at work. On February 20, 1996 the Office of Workers' Compensation Programs asked appellant to submit further factual information and a rationalized medical report in support of her claim.

Appellant responded on March 13, 1996. She explained that she delayed filing a claim because she had hoped the pain in her back and right leg would "get better on its own." Appellant added that she had sought treatment from a chiropractor.

On March 13, 1996 the Office denied the claim on the grounds that no work injury had been established. On March 18, 1996 appellant requested an oral hearing. However, on June 12, 1996 the Office vacated its March 13, 1996 decision "to facilitate further development" of appellant's claim. The Office informed appellant that it had not received any medical evidence and provided 20 days for her to submit a physician's report.

On July 31, 1996 the Office again denied the claim on the grounds that appellant had failed to meet her burden of proof in establishing any disability for work. The Office noted that appellant had been advised of the deficiency in her claim but had submitted no medical evidence.

On August 20, 1996 appellant timely requested an oral hearing. However, she addressed the envelope containing this letter to the Board, which processed the letter as an appeal of the July 31, 1996 denial of appellant's claim.[1]

[1] A telephone call to appellant on June 29, 1998 confirmed that she did not want an oral argument before the

The Board finds that appellant has failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was filed within the applicable time limitation of the Act, that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.[4]

In a claim for compensation based on a traumatic injury, the employee must establish fact of injury by submitting proof that he or she actually experienced the employment accident or event in the performance of duty and that such accident or event caused an injury as defined in the Act and its regulations.[5] The Office's regulations define traumatic injury as a wound or other condition of the body caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.[6] The injury must be caused by a specific event or incident or series of events of incidents within a single workday or shift.[7]

In determining whether an employee sustained an injury in the performance of his duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components considered in conjunction with one another.[8] The first component to be established is that the employee actually experienced the employment incident at the time, place, and manner alleged. In some cases, this first component can be established by an employee's uncontroverted statement that is consistent with the surrounding facts and circumstances and his subsequent course of action.[9] The second component, whether the

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Board and that her request for an oral hearing before the Office had been resolved.

[2] 5 U.S.C. §§ 8101-8193 (1974).

[3] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

[4] *Id*.

[5] *Gene A. McCracken*, 46 ECAB 593, 596 (1995).

[6] 20 C.F.R. § 10.5(15).

[7] *Richard D. Wray*, 45 ECAB 758, 762 (1994).

[8] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995); *see Elaine Pendleton*, 40 ECAB 1143, 1147 (1989).

[9] *Edgar L. Colley*, 34 ECAB 1691, 1695 (1983).

employment incident caused a personal injury, generally must be established by medical evidence.[10]

In this case, the record contains no medical evidence showing that appellant's fall at work on December 16, 1995 caused any injury. Appellant was twice informed -- on February 20 and June 12, 1996 -- that she had to submit a narrative medical report from her treating physician. In fact, the Office vacated its initial denial of the claim on March 13, 1996 to permit further evidentiary development and informed appellant on June 12, 1996 that it still had received no medical evidence in support of her claim.

Appellant did provide a factual response to the Office's request. She stated that she had twisted her back as she fell and that she went to a chiropractor, instead of a medical doctor, because she felt that a physician would just give her medicine for the pain while a chiropractor would correct the problem that was causing the pain. Appellant has not provided any medical evidence showing that she sustained an injury from the December 1995 fall at work.[11] Therefore, the Board finds that the Office properly denied her claim.

[10] *John J. Carlone*, 41 ECAB 354, 357 (1989). Every injury does not necessarily cause disability for employment. *Donald Johnson*, 44 ECAB 540, 551 (1993). Whether a particular injury causes disability for employment is a medical issue which must be resolved by competent medical evidence. *Debra A. Kirk-Littleton*, 41 ECAB 703, 706 (1990).

[11] *See Diane Williams*, 47 ECAB ___ (Docket No. 94-1311, issued May 24, 1996) (finding that appellant must present rationalized medical evidence based on a specific and accurate history that the condition for which she claims compensation is caused or adversely affected by employment factors).

The July 31, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
August 18, 1998

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member