

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BERNICE D. GAINES and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Cincinnati, Ohio

*Docket No. 96-2112; Submitted on the Record;
Issued July 13, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

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

On February 8, 1996 appellant, then a 54-year-old automation clerk, filed a notice of traumatic injury, claiming that she slipped on a wet floor and fell, hitting her head on a table in the entrance lobby of her workplace. Appellant explained that she received a one-inch cut on her forehead and was transported to a nearby emergency room by paramedics.

In support of her claim, appellant submitted a form which advised her to keep the cut area dry and return in five days for the stitches to be removed. On March 25, 1996 the Office of Workers' Compensation Programs informed appellant that she needed to submit a factual statement and medical evidence containing the treating physician's diagnosis, findings, and opinion on the cause of her injury. Appellant was advised by the Office of the consequences of failing to submit the necessary evidence within 30 days.

Following a telephone conference with appellant on April 1, 1996, the Office denied the claim on May 1, 1996 on the grounds that the evidence failed to establish that an injury had occurred. The Office noted that, while appellant had established that she was in the performance of duty because she was on her way to work, she had not established that she sustained any injury.

The Board finds that this case is not in posture for decision and must be remanded for further evidentiary development.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the

¹ 5 U.S.C. §§ 8101-8193 (1974).

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.² 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.

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.³ 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.⁴ The injury must be caused by a specific event or incident or series of events or incidents within a single work day or shift.⁵

As the Office found in its decision, appellant established that the incident occurred in the performance of duty because she was on the premises on her way to work. This case therefore rests on whether the incident caused any injury. The Office denied the claim because the evidence did not support a medical condition resulting from the fall in the lobby.

Although causal relationship generally is established by a rationalized medical opinion and appellant was informed of this requirement, the Office's procedure manual states that the Office may accept a claim without a medical report when the following criteria are met:

“(1) The condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burns, lacerations, insect stings, or animal bites);

“(2) The injury was witnessed or reported promptly, and no dispute exists as to the fact of injury; and

“(3) No time was lost from work due to disability.”⁶

In this case, the condition reported, a one-inch cut, is specifically listed in the first criterion as one that can be identified by a lay person. The accident report signed by a security officer described the laceration and did not indicate that the wound was serious. Therefore, the first criterion is satisfied. Because the security officer promptly reported the fall and the claim

² *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

³ *Gene A. McCracken*, 46 ECAB 593, 596 (1995).

⁴ 20 C.F.R. § 10.5(15).

⁵ *Richard D. Wray*, 45 ECAB 758, 762 (1994).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3.d(2) (November 1991).

form was completed the next day, the second criterion is also satisfied. No dispute exists as to the fact of injury. Accordingly, the Board finds that an injury occurred in the performance of duty in this case.

However, the Board is unable to determine from this record whether appellant was disabled by the injury. The claim form indicated that appellant stopped work on February 7, 1996 and returned to work the next day, thus missing at least one day due to the injury. Also, appellant is entitled to compensation for any work-related medical expenses.⁷

Because the evidence does not permit a finding on the amount of work time appellant lost due to the injury, the Board will set aside the Office's decision and remand the case for the Office to clarify this critical issue. After such further development as the Office deems necessary, the Office shall issue an appropriate final decision on appellant's entitlement to compensation.⁸

The May 1, 1996 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this opinion.

Dated, Washington, D.C.
July 13, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

⁷ See *Billy Ware Forbes*, 45 ECAB 157, 163 (1993) (finding that the Office failed to exercise its discretion in determining whether appellant's medical treatment was reasonable and necessary under section 8103 of the Act).

⁸ See *Melissa A. Carter*, 45 ECAB 618, 620 (1994) (finding that the Office failed to apply its criteria for accepting a claim without a medical report and remanding the case for the Office clarify whether appellant lost time from work due to her laceration).