U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM KERR and U.S. POSTAL SERVICE,
POST OFFICE, Downey, Calif.

Docket No. 96-2460; Submitted on the Record;
Issued September 9, 1998

DECISION and ORDER

Before GEORGE E. RIVERS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

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

The Board has carefully reviewed the case record and finds that appellant has failed to meet his burden of proof in establishing that his right hand sprain occurred in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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.[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 of Workers' Compensation Programs' 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

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[1] 5 U.S.C. §§ 8101-8193.

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

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

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]

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.[6] 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 which is consistent with the surrounding facts and circumstances and his subsequent course of action.[7] The second component, whether the employment incident caused a personal injury, generally must be established by medical evidence.[8]

In this case, appellant, then a 56-year-old letter carrier, filed a notice of traumatic injury on January 6, 1995, claiming that he hurt his right hand the day before when he tried to recover his keys which he had inadvertently locked inside his vehicle while delivering mail.

The Office informed appellant on January 26, 1995 that he needed to submit specific evidence of medical treatment and a narrative opinion from his physician explaining the causal relationship between appellant's disability and the claimed injury. Appellant responded by submitting a personal statement and medical evidence. Appellant stated that he noticed pain in his hand when inserting mail into boxes on his route and that the pain worsened with movement of his hand.

In a form report dated January 6, 1995, Dr. Al Pachachi, a general practitioner, diagnosed a right wrist and hand sprain, noting tenderness but no sensory or motor deficits, and advised appellant to wear a splint. X-rays revealed no abnormalities other than minor degenerative changes in the bones of the fingers.

On February 17, 1995 the Office denied the claim on the grounds that appellant had failed to establish that he sustained any injury in the performance of duty. The Office noted that none of the medical evidence provided objective physical findings to show a basis for the diagnosed sprain.

Appellant requested reconsideration, pointing out that he did not stop work because of the injury but was on light duty for two weeks or so. On January 23, 1996 the Office denied

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[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, *Fact of Injury*, Chapter 2.803.2a (June 1995); *see Elaine Pendleton*, 40 ECAB 1143, 1147 (1989).

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

[8] *John J. Carlone*, 41 ECAB 354, 357 (1989).

appellant's request on the grounds that the evidence submitted in support of reconsideration was insufficient to warrant modification of its prior decision.

Appellant again requested reconsideration, reiterating his description of how the injury occurred and the pain he felt in delivering the mail, and submitted a February 1, 1996 report from Dr. Pachachi, who described appellant's treatment and subsequent discharge on January 25, 1996 when his right wrist pain had ceased.

On May 15, 1996 the Office denied reconsideration on the grounds that the evidence submitted was insufficient to warrant review of its prior decision. The Office noted that appellant's statement of what happened on January 5, 1995 was repetitious and that Dr. Pachachi provided no history of the alleged injury.

The Board finds that the evidence submitted by appellant is insufficient to show that he sustained any injury causally related to work factors. While appellant's statement about retrieving his keys from his locked vehicle is credible and his complaints of pain upon movement of his right wrist and hand were made to Dr. Pachachi, neither he nor the physician provided any history of injury due to work factors.[9] Thus, appellant has not explained what happened to cause disabling pain in his right hand on January 5, 1995.[10]

Appellant was twice informed of the deficiencies in his case and the need to submit factual and medical evidence supporting his claim,[11] but failed to provide the required proof in the form of a rationalized opinion explaining the history of appellant's injury.[12] Therefore, the Board finds that appellant has failed to establish that he sustained any injury in the performance of duty.

[9] *See Alberta S. Williamson*, 47 ECAB ___ (Docket No. 94-1762, issued May 7, 1996) (finding that appellant failed to submit a rationalized medical report based on a complete factual and medical background explaining why her condition was contracted in the performance of duty).

[10] *See Rosie M. Price*, 34 ECAB 292, 294 (1982) (finding that the mere occurrence of an episode of pain during the workday is not proof of an injury having occurred at work; nor does such an occurrence raise an inference of causal relationship); *Max Haber*, 19 ECAB 243, 247 (1967) (same).

[11] *See O. Paul Gregg*, 46 ECAB 624, 634 (1995) (finding that when an employee claims an injury under the Act, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident, or exposure occurring at the time and in the place and manner alleged, and that the event, incident, or exposure caused an "injury" as defined by the Act).

[12] Appellant states on appeal that he was telling the truth about his on-the-job injury. The Board notes that appellant's credibility is not in question. The problem is the lack of medical evidence substantiating any work-related injury.

The May 15 and January 23, 1996 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.
September 9, 1998

George E. Rivers
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member