

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANTHONY L. RONE and U.S. POSTAL SERVICE,
ATLANTA BULK MAIL CENTER, Atlanta, Ga.

*Docket No. 97-2046; Submitted on the Record;
Issued February 25, 1999*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that he sustained an injury while in the performance of duty on February 4, 1997.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to meet his burden of proof to establish that he sustained an injury while in the performance of duty on February 4, 1997.

On February 10, 1997 appellant, then a mail handler, filed a traumatic injury claim (Form CA-1) alleging that on February 4, 1997 he sprained or strained his lower back while pushing sacks inside trucks. Appellant stopped work on the date of injury. Appellant's claim was accompanied by factual and medical evidence.

By letter dated March 31, 1997, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish his claim. The Office further advised appellant to submit factual and medical evidence supportive of his claim.

By decision dated May 6, 1997, the Office found the evidence of record insufficient to establish fact of injury. Specifically, the Office found the evidence of record sufficient to establish that appellant actually experienced the claimed event. The Office, however, found the medical evidence of record insufficient to establish that appellant sustained a medical condition caused by the employment incident.

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 individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitations period of the Act, that an injury was

¹ 5 U.S.C. §§ 8101-8193.

sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are 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 an occupational disease.³

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁴ In this case, the Office accepted that appellant actually experienced the claimed event. The Board finds that the evidence of record supports this incident.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁵ In the instant case, appellant has submitted no rationalized medical evidence establishing that he sustained a medical condition causally related to the February 4, 1997 employment incident.

In support of his claim, appellant submitted an emergency room treatment report indicating that he had strained the muscles in his lower back. The report also indicated that appellant had no signs of bone or nerve injury. Further, the report indicated appellant's medical treatment. This report is insufficient to establish appellant's burden inasmuch as it failed to address whether appellant sustained an injury caused by the February 4, 1997 employment incident.

Inasmuch as appellant has failed to submit medical evidence establishing that he sustained an injury while in the performance of duty on February 4, 1997, the Board finds that he has failed to meet his burden of proof.⁶

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ 20 C.F.R. § 10.110(a); *see John M. Tornello*, 35 ECAB 234 (1983).

⁶ On appeal, appellant has submitted additional medical evidence. However, the Board cannot consider evidence that was not before the Office at the time of the final decision; *see* 20 C.F.R. § 501.2(c)(1).

The May 6, 1997 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
February 25, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member