

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of RICHARD R. McCLAIN and U.S. POSTAL SERVICE,  
POST OFFICE, Knoxville, TN

*Docket No. 98-1864; Submitted on the Record;  
Issued April 24, 2000*

---

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof to establish that he sustained an injury in the performance of duty.

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

On October 7, 1997 appellant, then a 45-year-old letter carrier, filed a claim for traumatic injury (Form CA-1) alleging that on September 29, 1997 he sustained injuries to both knees when he stumbled on a rotted portion of a front porch in the performance of duty. By decision dated March 3, 1998, the Office of Workers' Compensation Programs denied appellant's claim finding that he failed to submit sufficient evidence to establish that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act 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 and/or specific condition for which compensation is claimed is causally related to the employment injury."<sup>1</sup> 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.<sup>2</sup>

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

---

<sup>1</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>2</sup> *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

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.<sup>3</sup> In some traumatic injury cases this component can be established by an employee's uncontroverted statement on the Form CA-1.<sup>4</sup> An alleged work incident does not have to be confirmed by eyewitnesses in order to establish that an employee sustained an injury in the performance of duty, but the employee's statement must be consistent with the surrounding facts and circumstances and his subsequent course of action.<sup>5</sup> A consistent history of the injury as reported on medical reports, to the claimant's supervisor and on the notice of injury, can also be evidence of the occurrence of the incident.<sup>6</sup> An employee has not met his burden of proof when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury and the failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on an employee's statements in determining whether a *prima facie* case has been established. However, an employee's statement alleging that an injury occurred at a given time and manner is of great probative value and will stand unless refuted by substantial evidence.<sup>7</sup>

In this case, the Office found that appellant had not established that the employment incident occurred as alleged. The Office noted that no medical evidence was submitted which described an injury on September 29, 1997. However, the Board notes that appellant stopped work on the date of the incident and returned to work on October 2, 1997, and further did not significantly delay in filing his claim. In addition, appellant's statement on his CA-1 is uncontroverted. Therefore, the Board finds that appellant has established that the employment incident occurred as alleged.

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.<sup>8</sup>

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's

---

<sup>3</sup> *Elaine Pendleton*, *supra* note 1.

<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> *Rex A. Lenk*, 35 ECAB 253, 255 (1983).

<sup>6</sup> *Id.* at 255-56.

<sup>7</sup> *Nathaniel Cooper*, 46 ECAB 1053 (1995); *Carmen Dickerson*, 36 ECAB 409 (1985).

<sup>8</sup> *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>9</sup>

In support of his claim for bilateral knee injuries, appellant submitted a Form CA-17 report dated December 10, 1997 from his treating physician, whose signature is illegible. In this report, the physician diagnosed pain and tenderness in both knees, and indicated that appellant had sustained an aggravation of a prior knee problem. The physician further indicated by check mark that the injury was consistent with a portion of a porch having given way, but did not indicate the date of injury. Finally, the physician noted that appellant could perform his regular duties but needed to be in a larger vehicle where he could fully extend his legs. This report is not sufficient to meet appellant's burden of proof as his opinion, which indicated causal relationship to the employment incident by a check mark on the form, without explanation or rationale, is insufficient to establish causal relationship.<sup>10</sup>

The remainder of the medical evidence in the record consists of treatment notes dated December 10, 17 and 31, 1997 which do not address appellant's history of injury and do not provide an opinion on the causal relationship between that injury and his diagnosed conditions. In addition, the December 10 and 31, 1997 treatment notes list the injury as having occurred in November 1997, approximately two months after the incident for which appellant filed his claim. By letter dated January 7, 1998, the Office advised appellant of the type of medical evidence necessary to meet his burden of proof. As appellant has not submitted such evidence, the Office properly denied his claim.<sup>11</sup>

---

<sup>9</sup> *James Mack*, 43 ECAB 321 (1991).

<sup>10</sup> *Robert Lombardo*, 40 ECAB 1038 (1989).

<sup>11</sup> There is some indication in the treatment notes, however, that appellant may have a preexisting knee condition which was aggravated by riding in a small postal vehicle which did not have power brakes. There is no evidence in the record, however, that appellant filed an occupational disease claim with respect to this condition.

The decision of the Office of Workers' Compensation Programs dated March 3, 1998 is hereby affirmed.

Dated, Washington, D.C.  
April 24, 2000

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Bradley T. Knott  
Alternate Member