

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of BOBBIE L. HUSELTON and U.S. POSTAL SERVICE,  
POST OFFICE, Olive Branch, MS

*Docket No. 00-820; Submitted on the Record;  
Issued March 5, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
A. PETER KANJORSKI

The issue is whether appellant met her burden of establishing that she sustained an injury in the performance of duty.

On October 6, 1999 appellant, then a 54-year-old rural letter carrier, filed a notice of traumatic injury (Form CA-1), alleging that on September 8, 1999 she injured her elbow, which caused aches and numbness in her fingers. Appellant noted in the block for the date of the notice that the date was September 7, 1999. On the reverse side of the form, the employing establishment noted that the date of appellant's injury was September 8, 1999, and that it had received notice of the claim on September 6, 1999.

By letter dated October 20, 1999, the Office of Workers' Compensation Programs advised appellant that the information she had submitted was insufficient to establish that she sustained an injury as alleged. The Office requested that appellant submit medical records pertaining to her condition including copies of all treatment notes and test results related to her claimed condition and a comprehensive medical report from her treating physician which describes her symptoms and the doctor's opinion, with medical reasons, on the cause of her condition including an explanation if the doctor feels that incidents in her federal employment contributed to her condition.

By decision dated November 23, 1999, the Office denied the claim on the grounds that the evidence of file was insufficient to establish that the alleged incident occurred.

The Board has reviewed the record and finds that appellant had not established an injury causally related to her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim including the fact that the

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period 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 are causally related to the employment injury.<sup>2</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

While an injury does not have to be confirmed by eyewitnesses in order to establish the fact that an employee sustained an injury in the performance of duty, as alleged, the employee’s statements must be consistent with surrounding facts and circumstances and his or her subsequent course of action.<sup>4</sup> Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury and failure to obtain medical treatment may cast doubt on an employee’s statements in determining whether he or she has established a *prima facie* case.<sup>5</sup> An employee has not met his or her burden of proof when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim.<sup>6</sup> However, an employee’s statement alleging that an injury occurred at a given time and in a given manner is of great probative value

There is insufficient evidence in the file regarding whether or not the claimed event, incident or exposure occurred at the time, place and in the manner alleged. In this case, appellant failed to clarify inconsistencies in the chronology of events as noted by the employing establishment and appellant. For example, appellant stated that she was injured on September 8, 1999. However, appellant also stated that the date of her claim was September 7, 1999. In addition, the employing establishment noted that appellant’s injury occurred on September 8, 1999, but that appellant notified the employing establishment on September 6, 1999. Further, appellant did not respond to the Office’s October 20, 1999 request for clarifying information. The Board finds that appellant’s failure to provide a consistent narrative concerning the events surrounding the alleged work-related incident cast serious doubt on the validity of her claim. Therefore, appellant has failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty.

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<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *David M. Ibarra*, 48 ECAB 218 (1996).

<sup>4</sup> *Charles B. Ward*, 38 ECAB 667 (1987); *Joseph Albert Fournier, Jr.*, 35 ECAB 1175 (1984).

<sup>5</sup> *Merton J. Sills*, 39 ECAB 572 (1988).

<sup>6</sup> *Tia L. Love*, 40 ECAB 586 (1989).

The November 23, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
March 5, 2001

Michael J. Walsh  
Chairman

David S. Gerson  
Member

A. Peter Kanjorski  
Alternate Member