U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WANDA J. HENDERSON and U.S. POSTAL SERVICE,
POST OFFICE, Los Angeles, CA

Docket No. 00-885; Submitted on the Record;
Issued March 14, 2001

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury as alleged.

On September 15, 1999 appellant, then a 45-year-old letter carrier, filed a claim for stress due to an August 19, 1999 incident whereby she was verbally threatened by the head of security, a customer on her designated route. Appellant alleged that the head of security said he should take out his rifle and shoot her. There is no indication that appellant stopped work.

In a decision dated November 8, 1999, the Office denied appellant's claim on the grounds that the evidence was not sufficient to establish that she sustained an injury as alleged. The instant appeal follows.

The Board has duly reviewed the case record and finds that appellant did not meet her burden of proof in establishing that she sustained an emotional condition as alleged.

A person who claims benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his claim, including that he sustained an injury while in the performance of duty and that he had disability as a result.[2] In accordance with the Federal (FECA) Procedure Manual, in order to determine whether an employee actually sustained an injury in the performance of his duty, the Office begins with the analysis of whether "fact of injury" has been established. Generally, "fact of injury" consists of two components which must be considered one in conjunction with the other. The first component to be established is that the employee actually experienced the employment incident or exposure

[1] 5 U.S.C. §§ 8101-8193.

[2] *Daniel R. Hickman*, 34 ECAB 1220 (1983); *see* 20 C.F.R. § 10.110(a)

which is alleged to have occurred.[3] In order to meet his burden of proof to establish the fact that he sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that he actually experienced the employment injury or exposure at the time, place and in the manner alleged. The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[4] The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.[5] The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish a causal relationship.[6]

Appellant alleged that she was verbally threatened by the head of security on August 19, 1999 while on her mail route. The employing establishment indicated that an incident with a customer was reported on August 20, 1999. In a letter dated October 5, 1999, the Office advised appellant that it required additional information to adjudicate her claim. She was asked to provide a detailed description of the August 19, 1999 incident, statements from anyone who witnessed the incident or had immediate knowledge of it, and whether medical treatment was sought. Appellant was requested to have her attending physician submit a narrative report on the relationship of any diagnosed condition(s) to her federal employment activity. Appellant was advised that her case would be held open for 30 days from the date of the letter to submit the requested information. Appellant did not respond within the allotted 30 days.

In the present case, appellant has failed to submit sufficient evidence to establish a *prima facie* claim for compensation. The evidence of record consists merely of her claim form with no supporting medical evidence or description of the August 19, 1999 incident as requested. Appellant has not discharged her burden of proof.[7]

[3] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803. 2(a) (June 1995).

[4] *John J. Carlone*, 41 ECAB 354 (1989); *see* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15), 10.5(a)(16) ("traumatic injury" and "occupational disease" defined).

[5] *Lourdes Harris*, 45 ECAB 545 (1994); *see Walter D. Morehead*, 31 ECAB 188 (1979).

[6] *Manuel Garcia*, 37 ECAB 767 (1986).

[7] The Board notes that the November 2, 1999 report of Dr. Bindman was received on November 10, 1999, and not considered by the Office in its decision of November 8, 1999. The Board's jurisdiction on appeal is limited to a review of the evidence which was in the case record before the Office at the time of its final decision; *see* 20 C.F.R. § 501.2(c). Therefore, the Board is precluded from reviewing this evidence. Appellant may resubmit this evidence and legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a). 20 C.F.R. § 10.606(b) (1999).

The decision of the Office of Workers' Compensation Programs dated November 8, 1999 is affirmed.

Dated, Washington, DC
March 14, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member