

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHERIE R. REINHARDT and U.S. POSTAL SERVICE,
POST OFFICE, Henderson, Colo.

*Docket No. 97-367; Submitted on the Record;
Issued August 20, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury in the performance of duty on June 30, 1994.

On November 30, 1995 appellant, then a 60-year-old auxiliary rural carrier, filed a notice of traumatic injury alleging that she suffered lower back strain when she lifted a parcel two feet off the floor on June 30, 1994 in the performance of duty.

On June 30, 1994 Dr. Mary Daehn, a physician Board-certified in family practice, diagnosed lower back pain. She also checked "yes" to indicate that the position was work related. Dr. Daehn repeated her diagnosis of lower back pain on July 5, July 12, August 15 and August 22, 1994. On July 12, 1994 she indicated that appellant could return to a limited-duty position. In progress reports dated June 30, July 8, July 12 and August 15, 1994, Dr. Daehn also indicated that she treated appellant for low back pain.

On September 15, 1994 Dr. Franklin Shih, a specialist in physical medicine and rehabilitation, reviewed appellant's history and conducted a physical examination. Dr. Shih opined only that appellant had a work-related injury on June 30, 1994 with secondary low back pain.

On December 15, 1994 the Office of Workers' Compensation Programs requested additional factual and medical evidence, including a physician's narrative report diagnosing the condition resulting from the alleged injury and describing the causal relationship between the alleged injury and the work incident on June 30, 1994.

Although appellant subsequently provided factual information regarding her June 30, 1994 work incident, she did not provide additional medical evidence.

By decision dated January 17, 1996, the Office rejected appellant's claim because fact of injury was not established.

On October 1, 1996 appellant requested reconsideration. In support, appellant described the work injury that caused the alleged injury and the medical treatment that she received.

By decision dated October 1, 1996, the Office reviewed the merits of the decision and found that the evidence submitted in support of the application was not sufficient to warrant modification of its prior decision. In an accompanying memorandum, the Office accepted that the June 30, 1994 work incident occurred as alleged, but found that the record lacked a probative medical report with a definitive medical diagnosis establishing that appellant sustained an injury due to the work incident.

The Board finds that appellant failed to meet her burden of proof to establish that she sustained an injury in the performance of duty on June 30, 1994.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim² including the fact that the individual is an "employee of the United States" within the meaning of the Act,³ that the claim was timely filed within the applicable time limitation period of the Act,⁴ 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.⁵ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁷ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁸

In the instant case, there is no dispute that appellant was an "employee" within the meaning of the Act, nor that appellant timely filed her claim for compensation. Moreover, the Office accepted that the June 30, 1994 work incident occurred as alleged. Nevertheless, a person who claims benefits for a work-related condition has the burden of establishing by the weight of

¹ 5 U.S.C. §§ 8101-8193.

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

³ See *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

⁵ See *Melinda C. Epperly*, 45 ECAB 196 (1993).

⁶ See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *Id.*

the medical evidence a firm diagnosis of the condition claimed and a causal relationship between that condition and factors of federal employment.⁹

The record contains the opinions of two physicians addressing appellant's alleged June 30, 1994 work injury. Dr. Daehn, a Board-certified family practitioner, only diagnosed "low back pain." Because Dr. Daehn failed to base her opinion on a firm diagnosis, it is entitled to little weight. Dr. Daehn's opinion is also entitled to little weight because she failed to provide an explanation for checking "yes" to indicate that appellant's injury was related to the June 30, 1994 work incident.¹⁰ Similarly, the opinion of Dr. Shih, a specialist in physical medicine and rehabilitation, opining that appellant had a work-related injury on June 30, 1994 with secondary low back pain is entitled to little because Dr. Shih did not make a firm diagnosis or explain his conclusion. The Office advised appellant of the deficiency in the medical evidence, but appellant failed to submit rationalized medical opinion evidence. Appellant, therefore, failed to meet her burden of proof.

The decisions of the Office of Workers' Compensation Programs dated October 1 and January 17, 1996 are affirmed.

Dated, Washington, D.C.
August 20, 1998

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁹ *Patricia Bolleter*, 40 ECAB 373 (1988).

¹⁰ *Ruth S. Johnson*, 46 ECAB 237 (1994).