

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MICHAEL DOWELL and U.S. POSTAL SERVICE,  
POST OFFICE, Carol Stream, Ill.

*Docket No. 96-2530; Submitted on the Record;  
Issued June 26, 1996*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
A. PETER KANJORSKI

The issue is whether appellant sustained an injury in the performance of duty, as alleged.

The Board has duly reviewed the case record and finds that appellant did not sustain an injury in the performance of duty, as alleged.

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>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an appellant must submit the following: (1) medical evidence establishing the presence or existence of the condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a

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

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

causal relationship between the appellant's 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 appellant.<sup>3</sup>

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his subsequent course of action. In determining whether a prima facie case has been established, such circumstances as late notification of injury, lack of confirmation of injury, and failure to obtain medical treatment may, if otherwise unexplained, cast serious doubt on a claimant's statements. The employee has not met his burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim.<sup>4</sup> However, an employee's statement that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.<sup>5</sup>

On February 22, 1996 appellant, then a 44-year-old mail carrier, filed an occupational disease claim, Form CA-2, apparently alleging that he hurt his foot as he stated that he had a walking route and that was the only place he did prolonged walking and his authorization for a medical report on the same date stated his medical problem was his foot.<sup>6</sup> Appellant stated that he became aware his condition was work related on October 15, 1995 but put off informing the employing establishment because he did not want to use up his sick leave which he knew he would need later for surgery on his jaw. Appellant did not work from February 22 to March 5, 1996.

By letter dated March 14, 1996, the Office of Workers' Compensation Programs informed appellant that additional information was needed in order to process his claim, particularly a detailed narrative report from his attending physician which addresses whether his condition was causally related to factors of his federal employment.

Appellant did not submit any additional evidence.

By decision dated May 16, 1995, the Office denied the claim, stating that the evidence of record failed to establish that an injury was sustained, as alleged.

In the present case, appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty because there is no corroborating evidence in the record. Other than the Form CA-2 and the authorization for a medical report, appellant did not submit any factual evidence to corroborate that he sustained an injury or to establish the nature

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<sup>3</sup> See *Lourdes Harris*, 45 ECAB 545, 547 (1994); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>4</sup> *Linda S. Christian*, 46 ECAB 598, 600-01 (1995); *Carmen Dickerson*, 36 ECAB 409, 415 (1985).

<sup>5</sup> *Linda S. Christian*, *supra* note 4 at 601; *Virgil F. Clark*, 40 ECAB 575, 584-86 (1989).

<sup>6</sup> Appellant did not specifically state what part of his body he injured on the claim form.

of the injury and he did not submit any medical evidence to establish that the alleged injury was causally related to factors of federal employment. The Office provided appellant with the opportunity to present the requisite evidence but appellant did not respond.

Accordingly, the decision of the Office of Workers' Compensation Programs dated May 16, 1996 is hereby affirmed.

Dated, Washington, D.C.  
June 26, 1996

Michael J. Walsh  
Chairman

George E. Rivers  
Member

A. Peter Kanjorski  
Alternate Member