

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANTHONY CACCIAPAGLIA and DEPARTMENT OF THE NAVY,
PUGET SOUND NAVAL SHIPYARD, Bremerton, Wash.

*Docket No. 96-1414; Submitted on the Record;
Issued March 27, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained an eye injury in the performance of duty on December 5, 1995.

On February 22, 1996 appellant filed a claim alleging that on December 5, 1995 he injured his left eye in the performance of duty. Appellant indicated on the claim form that he was chipping paint and after removing his face shield a paint chip fell into his eye. By decision dated March 25, 1996, the Office of Workers' Compensation Programs denied the claim.

The Board finds that appellant has not established an injury in the performance of duty on December 5, 1995.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that he or she sustained an injury while in the performance of duty.² 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 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. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.³

With regard to the above analysis, it appears that the Office has accepted that appellant was chipping paint on December 5, 1995 and there is no contrary evidence of record. As to the

¹ 5 U.S.C. §§ 8101-8193.

² *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.110(a).

³ *See John J. Carlone*, 41 ECAB 354, 357 (1989).

medical evidence, it is limited to an emergency room report dated December 5, 1995 from Dr. Marc Suffis.⁴ Dr. Suffis reported that appellant stated that he was at work and got a paint chip in his left eye. He provided results on examination, noting upper lid swelling but indicating that no foreign body was seen. Dr. Suffis diagnosed a sty in the left eye.

In a letter dated March 1, 1996, the Office requested that appellant submit additional evidence regarding causal relationship with employment, but no additional evidence was submitted. The Board concurs that the emergency room report is not sufficient to meet appellant's burden of proof in this case. Although extensive medical reasoning is not required, there must be an opinion with supporting explanation that a diagnosed condition is causally related to the employment incident.⁵ The medical evidence does not contain any opinion on causal relationship with employment in this case. It is, as noted above, appellant's burden to establish his claim and the Board finds he has not met that burden in this case.

The decision of the Office of Workers' Compensation Programs dated March 25, 1996 is affirmed.

Dated, Washington, D.C.
March 27, 1998

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ Appellant apparently sought treatment after his work shift had ended; the emergency room notes indicate treatment at 8:08 p.m., while appellant's normal work shift ended at 4:20 p.m. There is no indication that a Form CA-16 (authorization for examination and/or treatment) was issued in this case.

⁵ *Robert J. Krstyen*, 44 ECAB 227, 229 (1992).