

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALLEN E. MANLEY and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Richmond, VA

*Docket No. 98-174; Submitted on the Record;
Issued September 2, 1999*

DECISION and ORDER

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

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty on May 15, 1997.

On May 20, 1997 appellant, then a 59-year-old internal revenue agent, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that on May 15, 1997, while working for the employing establishment in its office in Gainesville, Georgia, he sustained an injury to his right leg when he tripped over an electrical cord and fell.¹ The record reveals that appellant stopped work on May 15, 1997 and returned on May 19, 1997. In a statement accompanying the claim form, appellant contended that he missed 14 hours of work as a result of this injury and was in pain for about two weeks. The employing establishment controverted the claim, questioning whether the incident "occurred at the time and place as alleged."

In response to the Office of Workers' Compensation Programs' July 7, 1997 request for further information, appellant submitted a letter in which he set forth a description of how the injury occurred and the effect the injury had on him. He noted that he did not seek medical attention because the leg was "getting better." Appellant did not submit any medical evidence and inquired as to what type was required.

By decision dated September 5, 1997, the Office denied appellant's claim. The Office found that the initial evidence indicated that the claimed incident occurred as alleged, but that a medical condition resulting from this incident was not shown. Therefore, the Office determined that the fact of injury in the performance of duty was not established.

¹ A witness signed a statement on the claim form indicating that on May 15, 1997 after hearing a big "thump," she witnessed appellant lying on the floor next to the cabinet. She noted that the electrical cord was lying on the floor.

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained an injury in the performance of duty on May 15, 1997.

An employee seeking benefits under the Federal Employees' Compensation Act² 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 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.³ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether "fact of injury" has been established. First the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁵ 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.⁶ An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or a specific condition for which compensation is claimed are causally related to the injury.⁷

In this case, appellant has not established an injury in the performance of duty because he has submitted no medical evidence to establish that the employment incident, *i.e.*, his trip on the electrical cord, caused a personal injury. As appellant has not, by the submission of this evidence, established a causal relationship between his alleged right leg injury and the May 15, 1997 employment incident, the Board finds that there is insufficient evidence to establish that appellant sustained an injury in the performance of duty on May 15, 1997, as alleged.

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Gene A. McCracken*, 46 BRS 593, 596 (1995).

⁵ *Louise F. Garnett*, 47 ECAB 639, 643 (1996).

⁶ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

⁷ As used in the Act, the term "disability" means incapacity because of an injury in employment to earn wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity; see *Frazier v. Nichol*, 37 ECAB 528 (1986).

The decision of the Office of Workers' Compensation Program dated September 5, 1997 is hereby affirmed.

Dated, Washington, D.C.
September 2, 1999

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member