

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA P. RODGERS and DEPARTMENT OF HOUSING & URBAN
DEVELOPMENT, Washington, DC

*Docket No. 99-918; Submitted on the Record;
Issued August 29, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that she sustained a back injury on January 30, 1998 in the performance of her federal employment.

On February 9, 1998 appellant, then a 50-year-old systems accountant, filed a claim for a traumatic injury alleging that on January 30, 1998 she injured her back while "moving large heavy boxes and files" in the performance of duty.

In a March 13, 1998 report, Dr. Terence McAuliffe, appellant's treating chiropractor, stated that he had examined appellant with respect to her February 27, 1998 work-related injury. Among his diagnoses were a finding of "subluxation complexes, cervical thoracic lumbar."

In a report dated June 26, 1998, Dr. McAuliffe stated that x-rays taken on March 12, 1998 revealed subluxation at C5-6 and C7 and L4-5 and S1.

In a report dated March 12, 1998, and received by the Office of Workers' Compensation Programs on July 20, 1998, Dr. McAuliffe stated that x-rays taken that day revealed vertebral subluxation complexes at C5-6 and C7 and L4-5 and S1.

By letter dated July 21, 1998, the Office advised appellant that she needed to submit additional information regarding her claim for compensation, including a physician's opinion supported by a rationalized medical opinion as to the causal relationship between her disability and the alleged injury.

In a report dated August 20, 1998, the employing establishment stated that appellant had a new work-related injury dated February 27, 1998 and that "bills previously paid (on this claim) should be transferred to the new claim for the February 27, 1998 injury once it is created."

By letter decision dated September 1, 1998, the Office denied appellant's claim. The Office stated that, although appellant established that the claimed incident occurred on January 30, 1998, she did not establish that an injury resulted from that incident.

The Board finds that appellant has not met her burden of proof in establishing that she sustained a work-related injury on January 30, 1998, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim by the weight of reliable, probative and substantial evidence, 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 is causally related to the employment injury.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 alleged to have occurred. The second component is whether the employment incident caused a personal injury, and generally can be established only by medical evidence.³

In the present case, the Office has accepted that a January 30, 1998 employment incident occurred, as alleged. The remaining issue is whether the incident caused a personal injury. As noted above, it is appellant's burden to establish the essential elements of her claim. In order to meet her burden, appellant must submit rationalized medical evidence, based upon a specific and accurate history of injury, showing a causal relationship between the employment incident and the condition. The medical evidence of record in this case does not contain such evidence. There is no medical report providing a description of the employment incident and a rationalized opinion as to causal relationship between the January 30, 1998 incident and appellant's back condition. Indeed, Dr. McAuliffe noted in a March 13, 1998 report that appellant's injury occurred on a date different from that which appellant listed in her claim. He noted an injury on February 27, 1998 while appellant listed January 30, 1998 as the date she sustained the alleged back injury. Dr. McAuliffe does not discuss the January 30, 1998 employment incident, nor does he relate appellant's back condition to that incident. Therefore, his reports are of little probative value to establish appellant's injury claim.⁴ Since the medical evidence does not contain probative medical evidence establishing an injury causally related to the January 30, 1998 employment incident, the Office properly denied her claim.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

⁴ Appellant submitted additional reports from Dr. McAuliffe dated March 12, April 10 and 27 and June 26, 1998.

The decision of the Office of Workers' Compensation Programs dated September 1, 1998 is affirmed.

Dated, Washington, D.C.
August 29, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member