

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARIA DUMEN and U.S. POSTAL SERVICE,
POST OFFICE, Carolina, PR

*Docket No. 00-172; Submitted on the Record;
Issued December 18, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has established that she sustained an injury in the performance of duty on July 16, 1998.

On July 17, 1998 appellant, then a 39-year-old window clerk, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that she sustained stress due to an armed robbery on July 16, 1998 of the employing establishment.

In a duty status report (Form CA-17) dated July 27, 1998, appellant's treating psychologist¹ diagnosed acute stress disorder and noted that the injury occurred during a "post office armed robbery." It was also noted that the employing establishment would "accommodate employee on limited duty, different assignment or facility as recommended by physician."

By letter dated September 25, 1998, the Office of Workers' Compensation Programs advised appellant that the evidence was insufficient to support her claim because it was unclear how appellant sustained an injury due to the reported armed robbery. The Office requested appellant to provide a statement regarding the circumstances of the incident as well as submitting medical documentation supporting a causal relationship between her injury and diagnosed condition.

Appellant did not respond to the Office's September 25, 1998 request.

By decision dated October 27, 1998, the Office denied appellant's claim for benefits finding that the evidence of record was insufficient to both establish that the alleged incident occurred and that an injury was sustained therefrom.

¹ The signature of the psychologist is illegible.

The Board finds appellant has not established that she sustained an injury in the performance of duty on July 16, 1998.

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 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 are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease claim.⁴

To determine whether an employee satisfied his or her burden of proof, the Office first considers whether the employment incident occurred at the time, place and in the manner alleged.⁵ Second, the Office must determine whether there is a causal relationship between the employment incident and the disability and/or condition for which compensation is claimed.⁶ An employee has the burden of establishing the occurrence of the event at the time, place and in the manner alleged, by the preponderance of the reliable, probative and substantial evidence.⁷ Thus, an employee may satisfy the burden of proof establishing that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition is related to that incident. In this case, the Office found that appellant did not establish fact of injury.

Appellant has submitted insufficient factual evidence to establish that the alleged July 16, 1998 incident occurred as claimed. In the July 17, 1998 claim form, appellant indicated the cause of injury as armed robbery, but failed to provide any specifics regarding the armed robbery such as who was robbed, where she was located during the alleged robbery, whether any weapons were used by the assailant or assailants, or the number of assailants.

Although appellant was advised in detail, by a September 25, 1998 letter, of the evidence needed to establish her claims for traumatic injury, she did not submit this information. Therefore, there is insufficient factual evidence of record to establish that the alleged July 16, 1998 incident occurred at the time, place and in the manner alleged. Appellant has therefore failed to meet the first, threshold element of her burden of proof in this case.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Gabe Brooks*, 51 ECAB ____ (Docket No. 98-1022, issued November 30, 1999); *Caroline Thomas*, 51 ECAB ____ (Docket No. 98-2353, issued April 6, 2000).

⁵ *Shirley A. Temple*, 48 ECAB 404, 407 (1997); *Elaine Pendleton*, *supra* note 3 at 1145.

⁶ *Calvin E. King*, 51 ECAB ____ (Docket No. 98-922, issued March 24, 2000); *see Elaine Pendleton*, *supra* note 3 at 1147.

⁷ *Sherman Howard*, 51 ECAB ____ (Docket No. 98-599, issued March 24, 2000); *Brian H. Derrick*, 51 ECAB ____ (Docket No. 98-119, issued March 29, 2000).

The decision of the Office of Workers' Compensation Programs dated October 27, 1998 is hereby affirmed.

Dated, Washington, DC
December 18, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Valerie D. Evans-Harrell
Alternate Member