

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROSALINN M. GIANG and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Oklahoma City, OK

*Docket No. 01-957; Submitted on the Record;
Issued December 4, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant sustained a traumatic injury in the performance of duty on July 15, 2000, as alleged.

On July 25, 2000 appellant, then a 44-year-old automation clerk, filed a traumatic injury claim alleging that on July 15, 2000 she experienced a headache and dizziness while casing mail and "blacked out."

In a report dated July 15, 2000, Dr. Roberto Gonzalez, an emergency room physician, stated that appellant was brought to the emergency department with a history of a syncopal episode at work that day. Appellant's husband indicated that she had experienced fainting spells before. Dr. Gonzalez provided findings on examination and diagnosed a syncope but indicated that all tests were normal.

In a duty status report dated July 16, 2000 for an examination of appellant on July 15, 2000, a physician indicated only benign clinical findings and found no medical condition as a result of the incident at work on July 15, 2000.

In a statement dated July 18, 2000, Bill Robinson, a supervisor, stated that on July 15, 2000 he was summoned to assist in lifting appellant from the floor to a desk after she purportedly fell or fainted. A coworker who had been a medic in the military checked her pulse, blood pressure, and respiration before appellant was lifted from the floor and found nothing abnormal. Paramedics arrived and checked appellant's vital signs and found no problem and had difficulty believing appellant had passed out because of her resistance to their attempts to examine her and converse with her. He stated that appellant was stiff when she should have been limp, refused to allow the paramedics to lift her eyelids so they could examine her eyes for dilation and conjunction, and refused to answer their questions which hindered their efforts to obtain critical information and develop a preliminary diagnosis. Appellant was taken to the hospital where doctors checked for symptoms of seizure, heart problems, tested her blood sugar and blood oxygen levels. The emergency room doctor found nothing wrong with appellant.

By letter dated August 8, 2000, the Office of Workers' Compensation Programs advised appellant that the information submitted to date was not sufficient to establish that she sustained a traumatic injury on July 15, 2000 and requested additional medical evidence.

By decision dated September 19, 2000, the Office denied appellant's claim for a traumatic injury on July 15, 2000 on the grounds that the evidence submitted did not establish that she sustained an injury in the performance of duty at work at the time, as alleged.¹

The Board finds that appellant has failed to establish that she sustained a traumatic injury in the performance of duty on July 15, 2000, as alleged.

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be established whether a "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.² 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.³

In this case, appellant alleged that she sustained a traumatic injury at work on July 15, 2000 when she passed out. However, the medical evidence does not establish that she sustained a medical condition as a result of the incident on July 15, 2000.

In a report dated July 15, 2000, Dr. Gonzalez, an emergency room physician, provided findings on examination and diagnosed a syncope, or fainting spell, but indicated that all tests were normal. As he did not diagnose a medical condition causally related to the incident at work on July 15, 2000, his report does not discharge appellant's burden of proof.

In a duty status report dated July 16, 2000 for an examination of appellant on July 15, 2000, a physician indicated only benign clinical findings and found no medical condition as a result of the incident at work on July 15, 2000. As the physician did not diagnose any medical condition as a result of the incident at work on July 15, 2000, this report does not establish that appellant sustained an injury on that date.

Appellant also submitted evidence regarding an emotional condition. This evidence is of limited probative value on the issue of whether appellant sustained a traumatic injury on July 15, 2000 and is not sufficient to discharge her burden of proof.⁴

¹ The Board notes that this file contains additional evidence stamped with a date subsequent to the Office's September 19, 2000 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).

² *See John J. Carlone*, 41 ECAB 354, 356-57 (1989).

³ *Id.*

⁴ The Office decision on appeal to the Board concerns appellant's claim for a traumatic injury. Appellant has also filed a separate claim for an emotional condition under Office file number 162005001.

The September 19, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
December 4, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member