

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of STEPHEN J. RADER and U.S. POSTAL SERVICE,  
POST OFFICE, Grand Rapids, MI

*Docket No.01-1866; Submitted on the Record;  
Issued August 23, 2002*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained an injury in the performance of duty on November 16, 2000.

The Board has duly reviewed the case record and finds that this case is not in posture for decision.

On February 7, 2001 appellant, then a 46-year-old letter carrier, claimed that on November 16, 2000, while delivering mail on his route his mail truck was rear-ended, causing him to hit the back of his head and arm on his vehicle. By letters dated December 14, 2000, the Office of Workers' Compensation Programs advised appellant that further information was needed to process his claim and advised him of the information needed. However, by decision dated January 18, 2001, the Office found that the evidence was insufficient to establish that an injury resulted from the incident.

By letter dated April 3, 2001, appellant requested reconsideration of the prior decision. By decision dated June 18, 2001, after a merit review, the Office denied appellant's request, finding that the evidence of record was insufficient to modify the prior decision.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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 and that the claim was filed within the applicable time limitations of the Act.<sup>2</sup> An individual seeking disability compensation must also establish that an injury was sustained at the time, place and in the

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

manner alleged,<sup>3</sup> that the injury was sustained while in the performance of duty<sup>4</sup> and that the disabling condition for which compensation is claimed was caused or aggravated by the individual's employment.<sup>5</sup> 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.<sup>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined 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.<sup>7</sup> 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.<sup>8</sup> The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>9</sup>

There is no dispute that appellant is a federal employee, that he timely filed his claim for compensation benefits and that the incident occurred as alleged.

The Act<sup>10</sup> provides that the Office shall determine and make findings of fact in making an award for or against payment of compensation after considering the claim presented by the employee and after completing such investigation as the Office considers necessary with respect to the claim.<sup>11</sup> Since the Board's jurisdiction of a case is limited to reviewing that evidence which is before the Office at the time of its final decision,<sup>12</sup> it is necessary that the Office review all evidence submitted by a claimant and received by the Office prior to issuance of its final

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<sup>3</sup> *Robert A. Gregory*, 40 ECAB 478 (1989).

<sup>4</sup> *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *Steven R. Piper*, 39 ECAB 312 (1987).

<sup>6</sup> *David J. Overfield*, 42 ECAB 718 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>7</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>8</sup> *Id.* For a definition of the term "injury" see 20 C.F.R. § 10.5(ee).

<sup>9</sup> *Id.*

<sup>10</sup> 5 U.S.C. §§ 8101-8193.

<sup>11</sup> 5 U.S.C. § 8124(a)(2); 20 C.F.R. § 10.125-26 (1999).

<sup>12</sup> 20 C.F.R. § 501.2(c).

decision. As the Board's decisions are final as to the subject matter appealed,<sup>13</sup> it is crucial that all evidence relevant to that subject matter which was properly submitted to the Office prior to the time of issuance of its final decision be addressed by the Office.<sup>14</sup>

The Office stated that in its June 18, 2001 decision, that appellant submitted a package of material with his request for reconsideration and then identified the material. The Office noted that the issue in this case, is medical in nature and the only item which might have had any possible bearing on its initial January 18, 2001 decision was a short report from Dr. Daniel P. Stewart, which the Office found to be deficient. However, the record submitted to the Board on appeal contains a November 24, 2000 report by Dr. Rudolph Schroeder with Bronson Methodist Hospital's emergency room which was relevant to the issue on appeal in this case and received by the Office on January 24, 2001, after it issued its initial decision, which does not appear to have been considered prior to the Office issuing its final decision on June 18, 2001. Therefore, the Board finds that the case must be remanded.

On remand the Office should review Dr. Schroeder's November 24, 2000 report and consider any additional evidence submitted by appellant.

The June 18 and January 18, 2001 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further action consistent with this decision of the Board.

Dated, Washington, DC  
August 23, 2002

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>13</sup> 20 C.F.R. § 501.6(c).

<sup>14</sup> See *William A. Couch*, 41 ECAB 548, 553 (1990).