

In a March 8, 2007 letter, the Office requested additional factual and medical evidence to support appellant's claim including a physician's opinion as to how the incident caused his condition. Appellant responded in a March 14, 2007 letter in which he explained that he opened

the vehicle door, set a tub on the seat and began sorting the mail in the tub and felt a pain in his back between but below his shoulder blades. He guessed that he may have injured himself when he opened the truck door. Appellant also stated that he did not have any symptoms before the incident.

In a March 3, 2007 urgent care visit report, Dr. Dennis W. Peck, Board-certified in family medicine, noted that appellant opened the door of the truck, climbed in and felt middle back pain between the shoulder blades which felt like a cramp. He also noted that appellant stated that his injury was work related. Dr. Peck diagnosed appellant with thoracic sprain and recommended no heavy lifting.

On April 18, 2007 the Office denied appellant's traumatic injury claim finding that evidence was insufficient to establish that the events occurred as alleged and additionally that there was no medical evidence diagnosing a condition connected with the claimed events.

On May 13, 2007 appellant requested a review of the written record.

On August 31, 2007 the Office denied appellant's claim based on a review of the record. It found that the evidence established that the identified incident occurred as alleged and established the factual component of the claim. The Office also found that while the medical evidence established that appellant sustained a diagnosed condition it did not establish that this diagnosed condition was a result of the accepted employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing that 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.<sup>2</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>3</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>4</sup> Second, the

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>5</sup>

### **ANALYSIS**

Appellant alleges that he sustained a back condition when he opened his truck door on March 3, 2007 in the performance of duty. The Office accepted that the incident occurred as alleged. The medical evidence establishes that appellant was diagnosed with a thoracic sprain. The question for determination is whether the accepted employment injury, opening a truck door, caused appellant's thoracic sprain.

In order to establish that the employment incident caused an injury appellant must establish through medical evidence that he has a diagnosed condition causally related to the incident. Appellant submitted a report from Dr. Peck who diagnosed thoracic sprain and noted that appellant felt the injury was work related. However, Dr. Peck never offers an opinion as to the cause of appellant's condition. While his report establishes that appellant had a thoracic sprain it does not establish that the thoracic sprain was causally related to the March 3, 2007 incident. To establish causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.<sup>6</sup> No such physician opinion was submitted which provided the necessary medical rationale to explain how opening the truck door physiologically caused appellant's thoracic strain. The Board finds that appellant has not met his burden to establish that his thoracic sprain was causally related to the accepted employment incident.

### **CONCLUSION**

The Board finds that appellant has not established that he sustained a traumatic injury in the performance of duty.

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<sup>5</sup> *Id.* For a definition of the term traumatic injury, see 20 C.F.R. § 10.5(ee). For a definition of the term occupational disease or illness, see 20 C.F.R. § 10.5(g).

<sup>6</sup> *D.D.*, 57 ECAB 734 (2006), *Calvin E. King*, 51 ECAB 394 (2000).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 31, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 17, 2008  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board