



In a May 8, 2008 letter, the Office notified appellant about the deficiencies in her claim and requested that she provide additional medical and factual evidence, including a comprehensive medical report from her treating physician discussing the cause of the condition and containing a firm diagnosis. Appellant did not provide any additional evidence.

By decision dated June 16, 2008, the Office denied appellant's claim. It found that she established that the work activities occurred as alleged; however, she did not provide any medical evidence containing a diagnosis which could be connected to the activity of driving a forklift.

### **LEGAL PRECEDENT**

An employee seeking compensation under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence,<sup>2</sup> including that she is an "employee" within the meaning of the Act<sup>3</sup> and that she filed her claim within the applicable time limitation.<sup>4</sup> The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>6</sup>

A person who claims benefits for a work-related condition has the burden of establishing by the weight of the medical evidence a firm diagnosis of the condition claimed and a causal relationship between that condition and factors of federal employment.<sup>7</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *J.P.*, 59 ECAB \_\_\_\_ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

<sup>3</sup> *See M.H.*, 59 ECAB \_\_\_\_ (Docket No. 08-120, issued April 17, 2008); *Emiliana de Guzman (Mother of Elpedio Mercado)*, 4 ECAB 357, 359 (1951); *see* 5 U.S.C. § 8101(1).

<sup>4</sup> *R.C.*, 59 ECAB \_\_\_\_ (Docket No. 07-1731, issued April 7, 2008); *Kathryn A. O'Donnell*, 7 ECAB 227, 231 (1954); *see* 5 U.S.C. § 8122.

<sup>5</sup> *G.T.*, 59 ECAB \_\_\_\_ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>7</sup> *See Roy L. Humphrey*, *supra* note 6; *see Naomi A. Lilly*, 10 ECAB 560, 574 (1959).

**ANALYSIS**

The issue is whether appellant established that she sustained a back injury due to driving a forklift at work. The Office accepted that her work activities occurred as alleged; however, it denied the claim on the grounds that appellant did not establish that her employment factors caused an injury.

Appellant failed to submit any medical evidence providing a firm diagnosis or addressing whether her injury was related to her employment factors. The Office advised her of the deficiencies in her medical evidence, by way of a May 8, 2008 letter, however, she failed to provide any additional evidence in support of her claim. Therefore, the Board finds that appellant failed to meet her burden of proof in establishing a *prima facie* claim for compensation.<sup>8</sup>

**CONCLUSION**

The Board finds that appellant did not establish that she sustained an injury in the performance of duty causally related to factors of her federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 16, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 8, 2009  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>8</sup> *Donald W. Wenzel*, 56 ECAB 390 (2005).