

**United States Department of Labor
Employees' Compensation Appeals Board**

M.F., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Minneapolis, MN, Employer**

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**Docket No. 08-1745
Issued: January 9, 2009**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 9, 2008 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated June 29, 2007, finding that she failed to establish an injury as alleged. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the issue in this case.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty on April 11, 2007.

FACTUAL HISTORY

On May 3, 2007 appellant, then a 47-year-old rural carrier, filed a traumatic injury claim alleging that he sustained an injury to her hip on April 11, 2007 when she fell from her chair at work while attempting to take a telephone message. She did not stop work.

By letter dated May 29, 2007, the Office advised appellant that additional factual and medical evidence was needed. It explained that a physician's opinion was crucial to her claim and provided 30 days within which to submit additional information. Appellant did not respond.

By decision dated June 29, 2007, the Office denied appellant's claim. It found that the evidence supported that the April 11, 2007 incident occurred; however, appellant failed to submit any medical evidence that provided a diagnosis which could be related to the accepted incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 timely filed within the applicable time limitation period of the Act² and that an injury was sustained in the performance of duty.³ These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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.⁵

The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.⁶ The employee must also submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷ 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.⁸

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *James E. Chadden Sr.*, 40 ECAB 312 (1988).

⁴ *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *See id.*

⁷ *Id.* For a definition of the term "traumatic injury," see 20 C.F.R. § 10.5(ee).

⁸ *Id.*

ANALYSIS

Appellant alleged that she was taking a telephone message at work on April 11, 2007 when she fell from her chair. The Office accepted that the claimed incident occurred. The Board finds that appellant fell from her chair at work, as alleged.

However, the evidence is insufficient to establish that the accepted employment incident caused an injury. In this regard, appellant failed to submit any medical evidence in support of her claim. In a letter dated May 29, 2007, the Office advised appellant of the deficiency in the medical evidence, but she did not respond. There is no medical report from a physician which provides a history of the accepted incident or a diagnosis related to her employment on that day. Appellant has failed to provide a *prima facie* claim for compensation.⁹ She, therefore, failed to meet her burden of proof.¹⁰

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury on April 11, 2007.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 29, 2007 is affirmed.

Issued: January 9, 2009
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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

⁹ See *Donald W. Wenzel*, 56 ECAB 390 (2005).

¹⁰ The Board notes that subsequent to the Office's June 29, 2007 decision, appellant submitted additional evidence. The Board has no jurisdiction to review this evidence for the first time on appeal. 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).