

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN W. BOND and U.S. POSTAL SERVICE,
FIELD MAINTENANCE OFFICE, Wake Forest, Tex.

*Docket No. 97-986; Submitted on the Record;
Issued December 15, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained an injury while in the performance of duty on July 30, 1996.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to establish that he sustained an injury while in the performance of duty on July 30, 1996.

On August 26, 1996 appellant, then a mechanic, filed a traumatic injury claim (Form CA-1) alleging that on July 30, 1996 dust got into his eyes while he was sweeping an area. Appellant stopped work on August 1, 1996 and returned to work on August 5, 1996. Appellant's claim was accompanied by employing establishment records and medical evidence.

By letter dated September 6, 1996, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish his claim. The Office also advised appellant to submit rationalized medical evidence supportive of his claim. By letter of the same date, the Office requested that appellant answer specific questions regarding his alleged injury. On September 11, 1996 appellant submitted responses to the Office's questions.

By decision dated September 27, 1996, the Office found the evidence of record insufficient to establish that appellant sustained an injury as alleged. In an accompanying memorandum, the Office found the evidence of record sufficient to establish that the incident occurred at the time, place and in the manner alleged, but insufficient to establish that appellant sustained a condition causally related to the July 30, 1996 employment incident.

In an October 15, 1996 letter, appellant requested reconsideration of the Office's decision accompanied by the Office's September 6, 1996 letter and September 27, 1996 decision, and his responses to the Office's September 6, 1996 questions. By decision dated November 14, 1996, the Office denied appellant's request for reconsideration without a review of the merits of the claim on the grounds that the evidence submitted in support of his request for reconsideration was repetitious in nature, and thus, insufficient to warrant review of its prior decision.

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 limitations 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.² 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.³

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁴ In this case, the Office accepted that the incident occurred at the time, place and in the manner alleged. The Board finds that the evidence of record supports this incident.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁵ In the present case, appellant has submitted no rationalized medical evidence establishing that his eye condition was causally related to the July 30, 1996 employment incident.

In support of his claim, appellant submitted an August 1, 1996 duty status report (Form CA-17) of Dr. Stacy Ware, a Board-certified internist. In this report, Dr. Ware indicated that appellant sustained dust in his left eye on July 31, 1996, clinical findings and a diagnosis of small corneal abrasion. Dr. Ware further indicated that appellant’s diagnosis was not due to the injury. Dr. Ware also indicated appellant’s work restrictions and treatment of appellant’s eye condition. This report is insufficient to establish appellant’s burden inasmuch as it does not provide that appellant’s eye condition was caused by the July 30, 1996 employment incident.

In further support of his claim, appellant submitted Dr. Ware’s August 1, 1996 disability certificate indicating a history of the July 30, 1996 employment incident, a diagnosis of small corneal abrasion and external hordeolum, and that appellant could return to work on August 5, 1996. This disability certificate is insufficient to establish appellant’s burden because

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718 (1991).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ *See John M. Tornello*, 35 ECAB 234 (1983); 20 C.F.R. § 10.110(a).

it failed to address whether or how the diagnosed condition was caused by the July 30, 1996 employment incident.⁶

Appellant submitted Dr. Ware's revised Form CA-17 dated October 10, 1996 in support of his request for reconsideration, which was received by the Office on October 18, 1996 and prior to its November 14, 1996 decision denying appellant's request for reconsideration. In this form, Dr. Ware indicated that appellant sustained dust in his left eye on July 31, 1996. Dr. Ware also indicated that appellant's diagnosis of small corneal abrasion was due to the injury at work. Dr. Ware failed to provide any medical rationale explaining how and why the incident caused appellant's eye condition. Additionally, Dr. Ware's opinion is not based on an accurate factual background inasmuch as he noted that the employment incident occurred on July 31, 1996 rather than July 30, 1996. Therefore, Dr. Ware's Form CA-17 is insufficient to establish that appellant sustained an eye condition while in the performance of duty on July 30, 1996.

Inasmuch as appellant has failed to submit the necessary rationalized medical evidence to substantiate that his eye condition was caused by the July 30, 1996 employment incident, he has failed to meet his burden.

The November 14 and September 27, 1996 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, D.C.
December 15, 1998

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁶ *Daniel Deparini*, 44 ECAB 657, 659 (1993).