

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELAINE M. DALPIAZ and U.S. POSTAL SERVICE,
POST OFFICE, Fenton, Mo.

*Docket No. 96-936; Submitted on the Record;
Issued February 19, 1998*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained an injury in the performance of duty on July 16, 1994.

On May 4, 1995 appellant filed a claim alleging that she sustained injuries to her neck and back in a motor vehicle accident in the performance of duty on July 16, 1994. By decision dated July 6, 1995, the Office of Workers' Compensation Programs denied the claim on the grounds that the medical evidence was insufficient to establish fact of injury.

The Board has reviewed the record and finds that appellant has not established an injury in the performance of duty on July 16, 1994.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that he or she sustained an injury while in the performance of duty.² 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. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.³

¹ 5 U.S.C. §§ 8101-8193.

² *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.110(a).

³ *See John J. Carlone*, 41 ECAB 354, 357 (1989).

In the present case, the Office accepted that appellant was involved in a motor vehicle accident in the performance of duty on July 16, 1994.⁴ As noted above, appellant must also establish that an injury resulted from the employment incident. There is no probative medical evidence of record regarding the July 16, 1994 motor vehicle accident. The Board has held that medical evidence must be in the form of a reasoned opinion by a qualified physician based on a complete and accurate factual and medical history.⁵ In the absence of such evidence, the Board finds that appellant has not met her burden of proof and the Office properly denied the claim.

The decision of the Office of Workers' Compensation Programs dated July 6, 1995 is affirmed.

Dated, Washington, D.C.
February 19, 1998

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ The record contains employing establishment accident reports regarding the incident.

⁵ *Robert J. Krstyen*, 44 ECAB 227, 229 (1992).