

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ERNEST P. THOMAS and U.S. POSTAL SERVICE,
MAIN POST OFFICE, St. Louis, Mo.

*Docket No. 96-1113; Submitted on the Record;
Issued February 17, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant established that he sustained an injury in the performance of duty.

On August 30, 1995 appellant, a 43-year-old mail handler, filed a notice of traumatic injury, claiming pain and discomfort in his right wrist and fingers. In support of his claim, appellant submitted two reports from Dr. Arthur N. Lee, a family practitioner, who diagnosed cumulative trauma disorder to appellant's right wrist and forearm, tendinitis and bursitis. Dr. Lee returned appellant to limited-duty work with restrictions and referred him for physical therapy.

On September 19, 1995 the Office of Workers' Compensation Programs informed appellant that he needed to submit a statement describing the injury that caused him pain and a medical report from his treating physician explaining how a work incident on August 30, 1995 resulted in an injury.

On November 6, 1995 the Office denied the claim on the grounds that the evidence failed to establish that appellant sustained an injury as alleged. The Office noted that appellant failed to identify a specific incident at work that caused his pain and discomfort.

The Board finds that appellant has failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty.

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 filed within the applicable time limitation of the Act, that an injury was sustained in the

¹ 5 U.S.C. §§ 8101-8193 (1974).

performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is 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 occupational disease.³

In a claim for compensation based on a traumatic injury, the employee must establish fact of injury by submitting proof that he or she actually experienced the employment accident or event in the performance of duty and that such accident or event caused an injury as defined in the Act and its regulations.⁴ The Office's regulations define traumatic injury as a wound or other condition of the body caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.⁵ The injury must be caused by a specific event or incident or series of events of incidents within a single workday or shift.⁶

In determining whether an employee sustained an injury in the performance of his duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components considered in conjunction with one another.⁷ The first component to be established is that the employee actually experienced the employment incident at the time, place and in the manner alleged. In some cases, this first component can be established by an employee's uncontroverted statement that is consistent with the surrounding facts and circumstances and his subsequent course of action.⁸ The second component, whether the employment incident caused a personal injury, generally must be established by medical evidence.⁹

In this case, appellant claimed pain and discomfort in his right wrist but identified no specific work incident causing this condition. When asked by the Office to explain how an injury occurred, appellant failed to provide any response.

While Dr. Lee diagnosed a cumulative trauma disorder, tendinitis and bursitis, and advised appellant to avoid repetitive grasping, the physician offered no opinion on what caused

² *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

³ *Id.*

⁴ *Gene A. McCracken*, 46 ECAB 593 (1995).

⁵ 20 C.F.R. § 10.5(15).

⁶ *Richard D. Wray*, 45 ECAB 758, 762 (1994).

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2803.2(a) (June 1995); see *Elaine Pendleton*, 40 ECAB 1143, 1147 (1989).

⁸ *Edgar L. Colley*, 34 ECAB 1691, 1695 (1983).

⁹ *John J. Carlone*, 41 ECAB 354, 357 (1989). Every injury does not necessarily cause disability for employment. *Donald Johnson*, 44 ECAB 540, 551 (1993). Whether a particular injury causes disability for employment is a medical issue which must be resolved by competent medical evidence. *Debra A. Kirk-Littleton*, 41 ECAB 703, 706 (1990).

these conditions except to note that appellant described “predominant use of right hand.” Despite being advised by the Office that he needed to submit a rationalized medical report in support of his claim, appellant did not do so.¹⁰

Therefore, the Board finds that appellant has failed to carry his burden of proof in establishing that he sustained an injury in the performance of duty.¹¹

The November 6, 1995 decision of the Office of Workers’ Compensation Programs is affirmed.

Dated, Washington, D.C.
February 17, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member

¹⁰ See *Alberta S. Williamson*, 47 ECAB ____ (Docket No. 94-1762, issued May 7, 1996) (finding that appellant failed to submit a rationalized medical report based on a complete factual and medical background explaining why her condition was contracted in the performance of duty).

¹¹ See *O. Paul Gregg*, 46 ECAB 624 (1995) (finding that when an employee claims an injury under the Act, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident, or exposure occurring at the time, place and in the manner alleged, and that the event, incident, or exposure caused an “injury” as defined by the Act).