

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONNA M. ROGAN and U.S. POSTAL SERVICE,
BULK MAIL CENTER, Hazelwood, Mo.

*Docket No. 96-1492; Submitted on the Record;
Issued May 6, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained a back injury in the performance of duty on August 20, 1995.

On August 21, 1995 appellant, a mail handler, filed a claim alleging that she injured her back on August 20, 1995 while picking up a box. By letter dated October 3, 1995, the Office of Workers' Compensation Programs requested that appellant submit additional factual and medical evidence. There is no indication that appellant responded to the request for information. By decision dated November 7, 1995, the Office denied the claim on the grounds that fact of injury was not established.

The Board finds that appellant has not established a back injury in the performance of duty on August 20, 1995.

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).

Appellant alleged that she injured her back while picking up a box on August 20, 1995. With regard to the alleged employment incident, the Board notes that an employee's statement is of great probative value and will stand unless refuted by strong evidence.⁴ In order to establish an injury in the performance of duty, however, appellant must submit medical evidence that establishes an injury causally related to the employment incident. In this case, appellant did not submit any medical evidence supporting her claim. Accordingly, the Board finds that she has not met her burden of proof in establishing a back injury in the performance of duty on August 20, 1995.

The decision of the Office of Workers' Compensation Programs dated November 7, 1995 is affirmed.

Dated, Washington, D.C.
May 6, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

A. Peter Kanjorski
Alternate Member

⁴ *Bill H. Harris*, 41 ECAB 216 (1989).