

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARLES D. GRAVES and U.S. POSTAL SERVICE,
POST OFFICE, Knoxville, Tenn.

*Docket No. 97-1005; Submitted on the Record;
Issued November 18, 1998*

DECISION and ORDER

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

The issue is whether appellant sustained an injury in the performance of duty on September 26, 1995.

On September 28, 1995 appellant, then a 43-year-old letter carrier, filed a notice of traumatic injury alleging that he pulled something in his stomach on September 26, 1995 when he picked up a tub of mail from the bottom of a hamper in the performance of his federal employment.

Appellant received treatment on October 2, 1995 from Dr. Steven B. Masters, appellant's treating physician and a Board-certified family practitioner. Dr. Masters stated that a hernia was found incidentally during his examination. He further stated that appellant could return to his full-time work.

On February 29, 1996 the Office of Workers' Compensation Programs informed appellant of the evidence needed to establish his claim. Specifically, the Office requested a physician's rationalized opinion on the causal relationship between the alleged work injury and the condition for which appellant received treatment. Appellant was given 30 days to respond.

By decision dated April 4, 1996, the Office denied appellant's claim because fact of injury was not established. The Office noted in an accompanying memorandum that appellant failed to submit a doctor's opinion with a rationale addressing the cause of his hernia.

On April 17, 1996 Dr. Masters checked appellant's blood pressure and noted that appellant reminded him that appellant had told him of the inguinal hernia resulting from pulling mail out of a hamper on September 26, 1995. Dr. Masters indicated that appellant denied any specific problems. He diagnosed HTN and hyperlipidemia.

On April 29, 1996 appellant requested reconsideration. Appellant again indicated that he pulled something in his stomach on September 26, 1995. Appellant stated that Dr. Masters said he had a hernia that required surgery.

By decision dated January 6, 1997, the Office reviewed the merits of the case and found that the evidence was not sufficient to warrant modification of the prior decision beyond acceptance of fact of an injury. In an accompanying memorandum, the Office accepted that appellant sustained some type of injury, but found that the medical evidence was insufficient to establish a causal relationship between the claimed injury and the claimed medical condition. The Office noted that it had advised appellant of the deficiency of the evidence.

The Board finds that appellant failed to meet his burden of proof to establish that he sustained an injury in the performance of duty on September 25, 1995.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim² including the fact that the individual is an "employee of the United States" within the meaning of the Act,³ that the claim was timely filed within the applicable time limitation period of the Act,⁴ 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.⁵ These are the essential element of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

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 evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁷ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁸

In the instant case, there is no dispute that appellant was an "employee" within the meaning of the Act, nor that appellant timely filed his claim for compensation. Moreover, the Office accepted that appellant sustained "an injury." Nevertheless, a person who claims benefits

¹ 5 U.S.C. §§ 8101-8193.

² See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.110.

³ See *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

⁵ See *Melinda C. Epperly*, 45 ECAB 196 (1993).

⁶ See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *Id.*

for a work-related condition has the burden of establishing by the weight of the medical evidence a firm diagnosis of the condition claimed and a causal relationship between that condition and factors of federal employment.⁹ In this case, appellant failed to submit any medical evidence addressing whether his injury was related to the September 26, 1995 work incident. The Office advised appellant of the deficiency in the medical evidence, but appellant failed to submit rationalized medical opinion evidence addressing the issue. Appellant, therefore, failed to meet his burden of proof.

The decision of the Office of Workers' Compensation Programs dated January 6, 1997 is affirmed.

Dated, Washington, D.C.
November 18, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member

⁹ *Patricia Bolleter*, 40 ECAB 373 (1988).