U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of REBECCA LeMASTER and U.S. POSTAL SERVICE,
POST OFFICE, Oklahoma City, Okla.

Docket No. 97-797; Submitted on the Record;
Issued February 22, 1999

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant was in the performance of duty on July 6, 1996 when she sustained injury in a motor vehicle accident.

On July 11, 1996 appellant, then a 26-year-old rural route letter carrier, filed a claim alleging she sustained injury on July 6, 1996 when her postal vehicle "ran over something in the road" and she lost control. The record reveals that the vehicle ran off the highway and rolled down a grass embankment and that appellant was ejected from the vehicle and sustained a fracture of the L1 vertebrae, right leg lacerations and a fractured left ring finger. On the claim form, the employing establishment controverted the claim by noting that appellant "was in an unauthorized location approximately two miles from her regular line of travel at the time of the accident."[1]

In response to a request from the Office of Workers' Compensation Programs for additional information concerning the accident, appellant submitted a letter dated September 9, 1996, in which she stated:

> "The reason there was a deviation from the normal route is that at first I went to the local convenience store to put air in a tire. After that, I was going to drive a mile up to make sure the jeep was going to drive okay. I missed the turn on Dobbs Road to turn back; so I was going to go on up to Harrah Road. Before I got there I had lost control of the jeep."

[1] The employing establishment noted that appellant worked only one day a week, on Saturdays. The official traffic record reflects that the accident occurred at approximately 4:30 p.m. The record indicates that the mail jeeps are the personal property of the rural carriers, who are responsible for maintenance of their vehicles.

By letter dated September 26, 1996, Kenneth Robinson, the postmaster and appellant's supervisor, stated:

> "[Appellant] states in her letter to OWCP that after she put air in her tire at the convenience store, she decided to drive one mile up the road to make sure the jeep was going to drive 'ok.' [Appellant] was traveling east on Highway 66, in a direction away from telephones or residences or businesses, in other words, away from possible assistance if there was a problem with the way the jeep drove. Coincidentally, the line of travel [appellant] was taking is her regular line of travel home. On July 7, 1996 while [appellant] was in Edmond Regional Hospital, she told me that she simply forgot to turn on Luther Road to go to the Post Office after re-inflating her tire. [Appellant] was late for a family holiday gathering that day."

Mr. Robinson submitted a diagram of the location of the postal vehicle in relation to the post office and a copy of his July 10, 1996 letter to the employing establishment operations manager, in which he described a July 7, 1996 visit with appellant, as follows:

> "On Sunday, July 7, 1996 I visited with [appellant] at the hospital and she gave me the following account of the day leading up to and including the accident: At about 11:30 a.m. on Cottonwood Lane, she noticed that the left rear tire of her vehicle was very low and she left her deliveries to travel approximately two miles to the only service station in Luther to air up her tire. She also noticed that the vehicle was overheating because of a broken radiator cap. She contacted a family member to assist her with the repairs. A new radiator cap was installed and the tire inflated. At about noon she resumed deliveries on the southern portion of the route, finished that portion and began deliveries on the north portion of the route. [Appellant] had no watch or clock and was unable to check the time. She wanted to be sure to make the 4:30 p.m. dispatch with collection mail and left after delivering Mr. Simmon's mail on North Luther Road to return to the Post Office to deposit collected mail. She then noticed that the time was just prior to 3:00 p.m. While at the [employing establishment] she noted on the form 4240 that she had had jeep problems. [Appellant] then resumed deliveries on North Luther Road and the final portion of the route. After completing the last delivery, she again noticed that the left rear tire was low and left her regular line of travel by turning west on Highway 66 from North Luther Road and traveling approximately a quarter mile to the service station. She says that she put air in the tire and left the station. She traveled east just about two miles to where the accident occurred. She states that she forgot to check in her keys and remaining collection mail."

Mr. Robinson noted that after reinflating the tire at the service station, appellant should have turned right on Luther Road and proceeded to the post office to check in her keys and collection mail. He contended that by proceeding east on Highway 66, appellant deviated from her employment.

By decision dated November 5, 1996, the Office denied appellant's claim finding that her injury was not sustained while in the performance of duty.

The Board finds that appellant's injury on July 6, 1996 was sustained while in the performance of her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act 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 while 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 occupational disease.[3]

Congress, in providing for a compensation program for federal employees, did not contemplate an insurance program against any and every injury, illness, or mishap that might befall an employee contemporaneous with his or her employment. Liability does not attach merely upon the existence of an employer-employee relation. Instead, Congress provided for the payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty. The phrase "while in the performance of duty" has been interpreted by the Board to be the equivalent of the commonly found prerequisite in workers' compensation law of "arising out of and in the course of employment."[4] In addressing this issue, the Board has stated the following:

> "In the compensation field, to occur in the course of employment, in general, an injury must occur: (1) at a time when the employee may reasonably be said to be engaged in his or her master's business; (2) at a place where he or she may reasonably be expected to be in connection with the employment; and (3) while he or she was reasonably fulfilling the duties of his or her employment or engaged in doing something incidental thereto."[5]

As noted by the Board in *Godfrey L. Smith*,[6] the Office generally classifies letter carries as "off-premises workers" and accordingly determines claims involving such workers under different principles than employees who have a fixed time and place of work.[7] In this case, facts in evidence establish that appellant was a rural route letter carrier at the time of the July 6, 1996 motor vehicle accident. The record also reflects that appellant worked one day a week, on Saturday and furnished her own car during her workday. In the present case, there is no factual

[2] *Godfrey L. Smith*, 44 ECAB 738 (1993).

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

[4] *See Godfrey L. Smith*, *supra* note 2.

[5] *Mary Kessler*, 38 ECAB 735, 739 (1987).

[6] *Supra* note 2.

[7] *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.5(a) (August 1992).

dispute that appellant's injury took place within the period of her employment, *i.e.*, while she was on her assigned mail delivery route. The issue presented, therefore, is whether appellant deviated from the course of her employment as is contended by the employing establishment and the Director on appeal.

In connection with the determination of whether an injury occurs in a place where the employee may reasonably be or constitutes a deviation from the course of employment, in *Thomas E. Keplinger*,[8] the Board stated:

> "[T]he Board will focus on the nature of the activity in which the employee was engaged and whether it is reasonably incidental to the employee's work assignment or represents such a departure from the work assignment that the employee becomes engaged in personal activities unrelated to his or her employment. As the Board noted in *Frezzell*, the standard to be used in determining that an employee has deviated from his employment requires a showing that the deviation was 'aimed at reaching some specific personal objective.'"[9]

Appellant was on her assigned delivery route when she encountered difficulty with her motor vehicle. Earlier in the day, while making her mail deliveries, appellant found it necessary to inflate the left rear tire and install a new radiator cap. After resuming her mail deliveries later in the afternoon, she again noted that her left rear tire was low and proceeded to a nearby convenience store to put more air in the tire. Appellant noted that after she inflated the tire, she "was going to drive a mile up to make sure the jeep was going to drive okay." According to appellant, she missed the turn on Dobbs Road to turn back towards the employing establishment and was proceeding to Harrah Road when she lost control of the jeep. Based on this evidence, the Board finds that appellant was reasonably engaged in her master's business at the time of injury on July 6, 1996. The evidence reflects that the departure from appellant's route was not made for some purely personal objective, but a necessarily ancillary activity, in which she was assuring the repair of the motor conveyance she used in her employment. As noted by Professor Larson, if an employee as part of his or her job is required to bring along his or her own car for use during the work day, the course of employment may be held to extend beyond the actual business trip to necessary ancillary activities, which include repair of the vehicle.[10] Larson notes that the theory behind this rule is, in part, related to the fact that the obligations of the job reach out beyond the premises, making the vehicle a mandatory part of the employment environment.[11] It is a service to the employer to convey to the premises a major piece of equipment, which is devoted to the employer's purposes. The Board finds that appellant was engaged in activities reasonably incidental to her master's business at the time of the July 6, 1996, motor vehicle accident and, therefore, her injury was sustained while in the performance of duty.

---

[8] 46 ECAB 699 (1995).

[9] *Id*. at 706; *see Dannie G. Frezzell*, 40 ECAB 1291 (1989).

[10] A. Larson, *The Law of Workers' Compensation* § 17.53 (1997).

[11] *Id.* at § 17.52

The November 5, 1996 decision of the Office of Workers' Compensation Programs is hereby reversed.

Dated, Washington, D.C.
February 22, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member