

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BEVERELY C. SMITH and DEPARTMENT OF THE AIR FORCE,
MAXWELL AIR FORCE BASE, Ala.

*Docket No. 97-1438; Submitted on the Record;
Issued January 13, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof to establish that she sustained an injury in the performance of duty on December 4, 1996.

On December 13, 1996 appellant filed a claim for a traumatic injury occurring on December 4, 1996 when she fell on a sidewalk. Appellant stopped work on December 5, 1996 and returned to work on December 6, 1996.

By decision dated March 10, 1997, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence was insufficient to establish an injury in the performance of duty.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not established that she sustained an employment-related injury on December 4, 1996.

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 timely filed within the applicable time limitation period of the Act² and that an injury was sustained in the performance of duty.³ These are essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁴ *Delores C. Ellyet*, 41 ECAB 992 (1990).

There is no dispute that appellant is a federal employee, that she timely filed her claim for compensation benefits and that the incident occurred as alleged. However, the Office found that the evidence was insufficient to establish that an injury resulted from the incident.

The Board finds that appellant has not established that the December 4, 1996 employment incident resulted in an injury. Appellant submitted no medical evidence in support of her claim. By letter dated January 31, 1997, the Office requested that appellant submit a rationalized medical report regarding the causal relationship between her diagnosed condition and the December 4, 1996 employment incident. However, appellant failed to respond to the Office's request within the allotted time. As appellant has not complied with the Office's request for the medical evidence necessary to substantiate her claim, she has failed to meet her burden of proof.⁵

The decision of the Office of Workers' Compensation Programs dated March 10, 1997 is hereby affirmed.

Dated, Washington, D.C.

January 13, 1999

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

⁵ The Board notes that appellant submitted additional evidence with her appeal. The Board's jurisdiction is limited to reviewing evidence which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may submit this evidence to the Office, together with a formal request for reconsideration pursuant to 20 C.F.R. § 10.138(b).