

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GLENN E. ANDERSON and U.S. POSTAL SERVICE,
POST OFFICE, Lombard, IL

*Docket No. 98-1802; Submitted on the Record;
Issued November 22, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs, by its February 26, 1998 decision, properly denied appellant's claim for an employment-related knee condition.

On December 18, 1997 appellant, then a 46-year-old letter carrier, filed a claim for pain in the knees which he attributed to continued walking while delivering mail. By letter dated January 26, 1998, the Office described the additional factual and medical evidence, including a physician's opinion on causal relation, appellant needed to submit to allow the Office to determine whether he was entitled to benefits under the Federal Employees' Compensation Act. The Office allotted appellant 30 days in which to submit the requested information, and stated, "If we have not received the requested information, an indication that it is forthcoming, or evidence that the information is not necessary to decide your claim, we will be required to render a decision on your claim based on the evidence in file."

By decision dated February 26, 1998, the Office found that fact of injury was not established, as appellant had not submitted the requested description of his activities at work and at home, or the requested rationalized medical report addressing causal relation.

On March 2, 1998 the Office received a letter dated January 19, 1998 from appellant describing in detail the employment duties to which he attributed his knee condition. On March 2, 1998 the Office also received from appellant medical reports from his attending physician. By letter dated March 6, 1998, the Office advised appellant that he must follow the appeal rights that accompanied his February 26, 1998 decision if he wished to dispute that decision, and that the material he submitted was being placed in his case file so it would be available if and when he appealed the Office's decision. By letter dated April 22, 1998, the Office advised appellant that a claim for arthritis in his knees filed on February 19, 1998 was a duplicate of his other claim, and that he must follow the appeal rights that accompanied his February 26, 1998 decision if he wished to dispute that decision. On May 13, 1998 appellant filed the present appeal with the Board.

The Board finds that the Office, by its February 26, 1998 decision, properly denied appellant's claim for an employment-related knee condition.

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

At the time of the Office's February 26, 1998 decision, appellant had established that he was an employee of the United States and that his claim was timely filed. Appellant had not, however, submitted evidence establishing that an injury was sustained in the performance of duty or that any disability or condition was causally related to his employment. The Office, by its February 26, 1998 decision, properly found that appellant had not met his burden of proof to establish fact of injury.

Subsequent to the Office's February 26, 1998 decision, appellant submitted additional factual and medical evidence. This evidence, however, was not accompanied by a written request for reconsideration, as required by the Office's regulations.⁶ By letters dated March 6 and April 22, 1998, the Office properly advised appellant to follow the appeal rights provided with the Office's February 26, 1998 decision. Appellant chose to appeal to the Board, but the Board's review, under its *Rules of Procedure*, is limited to "the evidence in the case record which was before the Office at the time of its final decision."⁷ Based on the evidence that was before the Office at the time of its February 26, 1998 decision, the Board finds that the Office properly denied appellant's claim for an employment-related knee condition.

The decision of the Office of Workers' Compensation Programs dated February 26, 1998 is affirmed.

Dated, Washington, D.C.

¹ 5 U.S.C. §§ 8101-8193.

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

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

⁴ 5 U.S.C. § 8122.

⁵ See *Daniel R. Hickman*, *supra* note 2.

⁶ 20 C.F.R. § 10.138(b)(1) states in pertinent part: "Under the discretionary authority granted by 5 U.S.C. § 8128(a), the Office may review an award for or against the payment of compensation on application of the claimant. No formal application for review is required, but the claimant must make a written request identifying the decision and the specific issue(s) within the decision which the claimant wishes the Office to reconsider, and give the reason why the decision should be changed."

⁷ 20 C.F.R. § 501.2(c).

November 22, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member