U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILMA D. PRICE and U.S. POSTAL SERVICE, POST OFFICE, Nashville, TN

Docket No. 98-375; Submitted on the Record; Issued October 4, 1999

DECISION and ORDER

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

The issue is whether appellant met her burden of proof to establish that she sustained an injury in the performance of duty on December 5, 1995.

The Board finds that appellant did not meet her burden of proof to establish that she sustained an injury in the performance of duty on December 5, 1995.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of 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 Act, 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.[2] These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[3]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.[4] Second, the employee must

[1] 5 U.S.C. §§ 8101-8193.

[2] *Elaine Pendleton,* 40 ECAB 1143, 1145 (1989).

[3] *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

[4] *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2(a) (June 1995).

submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[5] The term "injury" as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.[6]

In the present case, appellant alleged that she sustained a low back and left leg injury at work on December 5, 1995 when she turned to place a letter in a case. She indicated that she experienced pain that went from her back down her left leg. By decision dated March 25, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained an employment injury on December 5, 1995. By decisions dated and finalized January 15, 1997 and dated August 8, 1997, the Office denied modification of its prior decision.

Appellant did not submit sufficient medical evidence to establish that she sustained an injury in the performance of duty on December 5, 1995. Appellant received treatment for her back and leg problems from William R. Schooley, an attending Board-certified neurosurgeon. In a note dated February 7, 1997, Dr. Schooley stated:

> "On December 5, 1995, [appellant] was standing and turned to post a letter and got back pain. Pain down her leg and foot on the left side. That was not noted in her office visit note of December 7[, 1995] but at this time, I am appraised of it. Her myelogram at that time showed posterior disc bulge at L4-5 level and spondylolisthesis at the L5-S1. The diagnosis at that time was lumbar radiculopathy and lumbar spondylosis. According to her history, her injury of December 5, [1995] this would certainly be consistent with the findings of her back and leg pain."

In a letter dated May 29, 1997, Dr. Schooley indicated that he had treated appellant since December 13, 1997 and stated:

> "She claimed that on December 5, 1995, she was standing and turned to post a letter and got back pain down her left leg and foot. I feel, as a Board eligible, University trained neurosurgeon, that the findings of her back pain and the radicular component of her pain certainly are consistent with the type of injury she claimed she sustained at work. I have no other evidence than the patient's history and barring any other evidence, which I am not aware of, can only support the patient's history."

These reports of Dr. Schooley are not sufficient to meet appellant's burden of proof in that Dr. Schooley did not provide a clear diagnosis of what condition he attributed to the December 5, 1995 employment incident in that he merely noted that appellant's pain symptoms were consistent with the incident. Moreover, these reports are of limited probative value on the

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[5] *John J. Carlone*, 41 ECAB 354, 356-57 (1989); *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2(a) (June 1995).

[6] *Elaine Pendleton, supra* note 2; 20 C.F.R. § 10.5(a)(14).

relevant issue of the present case in that they do not contain adequate medical rationale in support of their conclusions on causal relationship.[7] Dr. Schooley did not describe the December 5, 1995 employment incident in any detail or explain the medical process by which it could have caused injury. Such medical rationale is especially necessary in the present case in that Dr. Schooley's reports from mid and late December 1995 do not make any mention of the December 5, 1995 incident[8] and appellant's history was not amended until the time of the above-described February 7, 1997 note.[9]

The decisions of the Office of Workers' Compensation Programs dated August 8, 1997 and dated and finalized January 15, 1997 are affirmed.

Dated, Washington, D.C.
October 4, 1999

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

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[7] *See Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

[8] In fact, a December 26, 1995 form report of Dr. Schooley attributed appellant's problems to an unspecified September 1, 1995 injury.

[9] In a letter dated January 8, 1997, Dr. Schooley stated, "[Appellant] first saw me for evaluation of her low back pain following an injury at work on November 7, 1994, It is my feeling that the second and third injuries are simply a continuation of her initial injury." However, Dr. Schooley did not provide any clarification of the nature of these "second" and "third" injuries.