

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MARK R. AASMUNDSTAD and U.S. POSTAL SERVICE,  
POST OFFICE, Richmond, CA

*Docket No. 98-718; Submitted on the Record;  
Issued October 26, 1999*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty.

On July 22, 1997 appellant, then a 47-year-old postal inspector, filed a notice of traumatic injury and claim for compensation alleging that on July 9, 1997 he was on official business for the employing establishment when he was involved in a car accident and thereby sustained injuries to his neck, back, arm and shoulder. Appellant was off work from July 10 through July 14, 1997.

By letter dated September 5, 1997, the Office of Workers' Compensation Programs requested that appellant submit medical evidence in support of his claim.

In a decision dated November 5, 1997, the Office denied appellant's claim for compensation on the grounds that there was no medical evidence of record to establish fact of injury.

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained an injury in the performance of duty on July 9, 1997.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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 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.<sup>2</sup> These are essential

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

In order to determine whether an employee has sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether a “fact of injury” has been established. There are two components involved in establishing fact of injury which must be considered. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.<sup>4</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused personal injury.<sup>5</sup> The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence.

In the instant case, the Office properly noted that appellant has submitted no medical evidence to establish that he sustained an injury as a result of the July 9, 1997 car accident.<sup>6</sup> The Board, therefore, finds that the Office properly denied compensation as appellant has not presented a *prima facie* claim for compensation.

The decision of the Office of Workers’ Compensation Programs dated November 5, 1997 is hereby affirmed.

Dated, Washington, D.C.  
October 26, 1999

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>3</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *Elaine Pendleton*, *supra* note 2.

<sup>5</sup> *Id.*

<sup>6</sup> Appellant submitted medical evidence subsequent to the Office’s November 5, 1997 decision; however, the Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from seeking to have the Office review such evidence pursuant to a motion for reconsideration filed with the Office.