

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MAZIE A. HARDIN and DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE, Lanham, MD

*Docket No. 99-1982; Submitted on the Record;  
Issued August 8, 2000*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained an injury on August 28, 1998 in the performance of duty.

On August 28, 1998 appellant, then a 52-year-old secretary, filed a claim alleging that she sustained an injury on that date when a piece of metal fell and hit her right wrist. By decision dated March 2, 1999, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that she did not establish fact of injury.

The Board has duly reviewed the case record on appeal and finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty on August 28, 1998.

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 period of the Act<sup>2</sup> and that an injury was sustained in the performance of duty.<sup>3</sup> These are essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>4</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990).

In the instant case, the Office accepted that appellant was a federal employee, that she timely filed her claim for compensation benefits, and that the workplace incident occurred as alleged. The question therefore becomes whether this incident or exposure caused an injury.

In support of her claim, appellant submitted physical therapy notes from August and September 1998. As a physical therapist is not a physician for purposes of the Act,<sup>5</sup> these notes do not constitute medical evidence and are insufficient to meet appellant's burden of proof.<sup>6</sup>

The Office, by letter dated January 28, 1999, requested additional information from appellant, including a detailed medical report containing a rationalized opinion regarding the cause of any diagnosed condition and its relationship to her employment. The Office provided appellant 30 days within which to submit the requested information. Appellant failed to submit such evidence within the time allotted and therefore failed to discharge her burden of proof.<sup>7</sup>

The decision of the Office of Workers' Compensation Programs dated March 2, 1999 is hereby affirmed.

Dated, Washington, D.C.  
August 8, 2000

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>5</sup> See 5 U.S.C. § 8101(2).

<sup>6</sup> *Jane A. White*, 34 ECAB 515 (1983).

<sup>7</sup> 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.