

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SHARYL P. CARTER and DEPARTMENT OF DEFENSE,  
NAVY CRANE CENTER, San Diego, CA

*Docket No. 99-1152; Submitted on the Record;  
Issued July 3, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained an injury in the performance of duty on August 6, 1997, as alleged.

The Board has reviewed the case record in the present appeal and finds that the Office of Workers' Compensation properly determined that appellant failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty on August 6, 1997, as alleged.

An employee seeking benefits under the Federal Employee's Compensation Act<sup>1</sup> 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 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 the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989); *see also Melinda C. Epperly*, 45 ECAB 196 (1993).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>4</sup>

The Office, in its decision dated October 1, 1998, accepted that appellant was an employee of the federal government, and that she timely filed a claim. Furthermore, there is no dispute that appellant suffered a specific event on October 1, 1998, *i.e.*, a fall in the course of her employment, as appellant's statement to that effect is unrefuted. Therefore, appellant has established that she suffered an incident on August 6, 1997 at the time, place and in the manner alleged.

Nonetheless, the Board finds that appellant has not established that the August 6, 1997 employment incident resulted in an injury. Appellant submitted no medical evidence with her claim. By letter dated August 31, 1998, the Office advised appellant of this deficiency. Appellant submitted an answer to various questions propounded by the Office, but failed to submit any medical evidence in support of an injury. Accordingly, the Office properly denied appellant's claim on the basis that she failed to establish a medical condition existed as a result of the work-related fall.<sup>5</sup>

The decision of the Office of Workers' Compensation Programs dated October 1, 1998 is hereby affirmed.

Dated, Washington, D.C.  
July 3, 2000

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>4</sup> *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

<sup>5</sup> Several days after the issuance of the October 1, 1998 decision, appellant attempted to submit additional evidence in support of her claim. Appellant also attempted to submit additional evidence on appeal. The Board's review is limited to the evidence that was before the Office at the time of its final decision. The Board therefore cannot consider this evidence. 20 C.F.R. § 501.2(c). Appellant may resubmit this evidence and legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a).