

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RONALD A. FINCH and U.S. POSTAL SERVICE,
POST OFFICE, Washington, DC

*Docket No. 99-1625; Submitted on the Record;
Issued July 17, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

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

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to meet his burden of proof to establish that he sustained an injury in the performance of duty.

On October 15, 1998 appellant, then a 48-year-old "SSPC" technician, filed a traumatic injury claim (Form CA-1) alleging that on that date he sustained whiplash when he was rear-ended by a METRO bus. He stopped work on October 15, 1998.

By letter dated December 15, 1998, the Office of Workers' Compensation Programs advised the employing establishment to submit factual evidence regarding appellant's claim. By letters of the same date, the Office advised appellant to submit factual and medical evidence supportive of his claim. In an undated response letter, the employing establishment submitted factual evidence.

In a decision dated January 25, 1999, the Office found the evidence of record sufficient to establish that appellant actually experienced the claimed accident, but insufficient to establish that a condition had been diagnosed in connection with this accident.¹

¹ The Board notes that subsequent to the Office's January 25, 1999 decision, the Office received medical evidence. Further, on appeal, appellant has submitted additional factual and medical evidence. The Board, however, cannot consider evidence that was not before the Office at the time of the final decision; *see Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35 (1952); 20 C.F.R. § 501.2(c)(1).

An employee seeking benefits under the Federal Employees' Compensation Act² 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 limitations 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁵ In this case, the Office accepted that appellant actually experienced the claimed incident. The Board finds that the evidence of record supports this incident.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁶

Regarding the second component, the Board finds that appellant has failed to establish that he sustained a condition caused by the October 15, 1998 employment incident. At the time of the Office's January 25, 1999 decision, appellant had not submitted any medical evidence to establish that he sustained whiplash caused by the October 15, 1998 employment incident. The Office, therefore, properly denied his claim for compensation.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Daniel J. Overfield*, 42 ECAB 718 (1991).

⁵ *Elaine Pendleton*, *supra* note 3.

⁶ *See John M. Tornello*, 35 ECAB 234 (1983); 20 C.F.R. § 10.110(a).

The January 25, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
July 17, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member