U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID L. NEAL and U.S. POSTAL SERVICE,
POST OFFICE, Salt Lake City, UT

Docket No. 99-755; Submitted on the Record;
Issued June 16, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof in establishing that he sustained an injury in the performance of his federal duties, as alleged.

On September 9, 1998 appellant, then a 41-year-old mailhandler, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he suffered stress and anxiety from his federal employment. He first realized that his condition was aggravated by his employment on August 27, 1998. In a decision dated November 12, 1998, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that fact of injury was not established.

The Board has duly reviewed the case record and finds that appellant has not established that he sustained an injury in the performance of his federal duties as alleged.

A person who claims benefits under the Federal Employees' Compensation Act [1] has the burden of establishing the essential elements of his claim, including that he sustained an injury while in the performance of duty and that he had disability as a result.[2] In accordance with the Federal (FECA) Procedure Manual, in order to determine whether an employee actually sustained an injury in the performance of his duty, the Office begins with the analysis of whether "fact of injury" has been established. Generally, "fact of injury" consists of two components which must be considered one in conjunction with the other. The first component to be established is that the employee actually experienced the employment incident or exposure which is alleged to have occurred.[3] In order to meet his burden of proof to establish the fact that

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[1] 5 U.S.C. §§ 8101-8193.

[2] *Daniel R. Hickman*, 34 ECAB 1220 (1983); *see* 20 C.F.R. § 10.110(a).

[3] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995).

he sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that he actually experienced the employment injury or exposure at the time, place and in the manner alleged. The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[4] The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.[5] The belief of claimant that a condition was caused or aggravated by the employment is not sufficient to establish a causal relationship.[6]

In the present case, appellant has not submitted sufficient factual information to establish that he was injured in the course of his federal employment. Although, in a letter dated September 17, 1998, the Office requested that appellant submit both factual and medical evidence to establish that his conditions resulted in or aggravated his illness, appellant did not submit any factual evidence or provide a statement of work events which he felt contributed to or aggravated his illness.[7] As the record is devoid of any factual evidence to establish that appellant's federal employment contributed to or aggravated his illness, the first prong of the fact-of-injury test has not been established. Appellant has not met his burden of proof.

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[4] *John C. Carlone*, 41 ECAB 354 (1989); *see* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15), 10.5(a)(16) ("traumatic injury" and "occupational disease" defined).

[5] *Lourdes Harris*, 45 ECAB 545 (1994); *see Walter D. Morehead*, 31 ECAB 188 (1979).

[6] *Manuel Garcia*, 37 ECAB 767 (1986).

[7] The Office properly noted that the occupational disease form, a position description, the employment application, physical requirements of the postal service job, a November 23, 1997 letter of warning, an unsigned chronological statement of events from August 21 through September 9, 1998 concerning appellant's attendance, and medical reports from Dr. Alan Barker were not sufficient to make a determination of whether appellant is eligible for benefits as in-depth factual and medical reporting is required.

The decision of the Office of Workers' Compensation Programs dated November 12, 1998 is hereby affirmed.[8]

Dated, Washington, D.C.
June 16, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

[8] The Board notes that appellant's appeal to the Board was accompanied by new medical and documentary evidence. The Board's jurisdiction on appeal is limited to a review of the evidence which was in the case record before the Office at the time of its final decision; *see* 20 C.F.R. § 501.2(c). Therefore, the Board is precluded from reviewing this evidence. 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). 20 C.F.R. § 501.2(c).