

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SERVANDO CANALES and DEPARTMENT OF THE ARMY,
Corpus Christi, TX

*Docket No. 99-801; Submitted on the Record;
Issued June 2, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

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

On May 13, 1998 appellant, then a 51-year-old aircraft mechanic, filed a notice of traumatic injury and claim for continuation of pay/compensation, Form CA-1, alleging on April 3, 1998 he hit and bruised his right elbow after a wrench slipped causing his elbow to hit an angle bracket. On the reverse of the form, appellant's supervisor did not indicate that appellant stopped working.

Evidence of record includes dispensary permits from the employing establishment's dispensary dated May 18 and 21, 1998 which find appellant able to work with no restrictions, unfit for work and able to perform light duty, respectively.¹ All three reports indicated that appellant is complaining of an injury to his right elbow, but they did not address the cause of his injury. There are also two reports from Dr. Jon F. Manjarris, a Board-certified orthopedic surgeon, dated May 22, 1998, who diagnosed an enlarged right olecranon bursa. Dr. Manjarris' reports did not specify the cause of appellant's condition.

By letter dated September 29, 1998, the Office of Workers' Compensation Programs advised appellant that the information submitted in his claim was not sufficient to determine whether appellant was eligible under the Federal Employees' Compensation Act. Further, the Office advised appellant of the additional medical and factual evidence needed to support his claim. In particular, appellant was advised to provide a physician's opinion, with medical reasons for such opinion, as to how the work incident caused or aggravated the claimed injury.

¹ The names of the medical personnel administering care are not discernible from the signatures.

By decision dated October 21, 1998, the Office denied appellant's claim. The Office found that the medical evidence did not establish a relationship between the April 3, 1998 work incident and his medical condition.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

An employee seeking benefits under the Act² has the burden of establishing that 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 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

The second component is whether the employment incident caused a personal injury and generally can be established only be 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

In the instant case, there is no dispute that appellant is an employee or that he hit his elbow while installing a piece of equipment. However, there is insufficient medical evidence to establish that this action caused or aggravated a medical condition.

In the instant case, medical reports indicate that appellant injured his right elbow, and a diagnosis of right olecranon bursitis was made. However, appellant has submitted no medical evidence that this or any other condition is due to factors of his employment. The May 22, 1998 report from Dr. Manjarris did not address the cause of appellant's condition. Likewise, the clinic reports from the employing establishment dispensary did not specifically address the cause of appellant's diagnosed condition. On September 29, 1998 the Office advised appellant of the

² 5 U.S.C. § 8101 *et seq.*

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

⁴ *J. Overfield*, 42 ECAB 718, 721 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Elaine Pendleton*, *supra* note 3.

⁶ *See* 20 C.F.R. § 10.11(a); *John M. Tornello*, 35 ECAB 234 (1983).

type of medical and factual evidence needed to establish his claim. However, such evidence was not submitted.⁷

As noted above, part of appellant's burden of proof includes the submission of medical evidence establishing that the claimed condition is causally related to employment factors. As appellant has not submitted such evidence, he has not met his burden of proof in establishing his claim.

The decision of the Office of Workers' Compensation Programs dated October 21, 1998 is hereby affirmed.

Dated, Washington, D.C.
June 2, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

⁷ The record contains a medical report received after the Office's October 21, 1998 decision. The Board has no jurisdiction to review this evidence for the first time on appeal. 20 C.F.R. § 501.2(c).