

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT R. WHITE and U.S. POSTAL SERVICE,
POST OFFICE, Coppel, TX

*Docket No. 98-2338; Submitted on the Record;
Issued March 8, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant met his burden of proof to establish that he sustained a back injury in the performance of duty on June 12, 1993.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a back injury in the performance of duty on June 12, 1993.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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, 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.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.⁴ Second, the employee must

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

⁴ *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2(a) (June 1995).

submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁵ The term “injury” as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.⁶

On June 12, 1993 appellant, then a 39-year-old tractor trailer operator, filed a traumatic injury claim alleging that on June 12, 1993 he sustained injury to his mid back.⁷ Appellant did not stop work at the time of his claimed injury.⁸ By decision dated July 22, 1998, the Office denied appellant’s claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained a back injury in the performance of duty on June 12, 1993.⁹

The Board finds that, although appellant established the occurrence of an employment incident on June 12, 1993, he did not submit sufficient medical evidence to establish that he sustained an injury due to that incident. The record reveals that, despite a request by the Office, appellant did not submit any medical evidence in support of his claim that he sustained an injury due to unloading mail containers at work on June 12, 1993. Therefore, appellant did not meet his burden of proof to submit medical evidence establishing the occurrence of an employment injury on June 12, 1993 and the Office properly found, in its July 22, 1998 decision, that he had not established an employment injury as alleged.

⁵ *John J. Carlone*, 41 ECAB 354, 356-57 (1989); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2(a) (June 1995).

⁶ *Elaine Pendleton*, *supra* note 2; 20 C.F.R. § 10.5(a)(14).

⁷ Appellant noted on his claim form, “Injured my back a while back one Friday while I [w]as a 204B for a supervisor, and this morning [June 12, 1993] I reinjured my back.” Appellant later indicated that he injured his back on June 12, 1993 while unloading containers filled with mail.

⁸ The record contains forms in which appellant claimed that he sustained a recurrence of disability in June 1997 due to an unspecified 1993 injury and a recurrence of disability on February 19, 1998 due to an “unknown” injury. However, the record does not contain a final decision of the Office of Workers’ Compensation Programs concerning these claims and, therefore, the matters are not currently before the Board; see 20 C.F.R. § 501.2(c).

⁹ The Office noted that it had accepted the occurrence of the employment incident on June 12, 1993.

The decision of the Office of Workers' Compensation Programs dated July 22, 1998 is affirmed.

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

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member