

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LEONARD S. TRACY and INTERNAL REVENUE SERVICE,
CRIMINAL INVESTIGATION DIVISION, St. Louis, MO

*Docket No. 99-475; Submitted on the Record;
Issued March 28, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty on February 12, 1998.

On February 23, 1998 appellant filed a claim for a traumatic injury and for continuation of pay/compensation (Form CA-1), alleging that the injury to his neck, left shoulder and back was employment related. Appellant, a special agent for the Internal Revenue Service Criminal Investigation Division, claimed that, on or about February 12, 1998, while practicing defensive techniques at the Police Academy, he slipped and fell off of a mat onto the concrete floor. Appellant further noted that the instructor who participated in this training maneuver also fell and landed on top of him. Appellant indicated on the claim form that there were two witnesses to this incident, and Leonard Lupa, appellant's supervisor, also indicated that his knowledge of the claimed injury was in agreement with the statements made by appellant.

Appellant submitted a letter from Dr. Russell Chlysta, dated February 26, 1998, that confirmed a magnetic resonance imaging (MRI) had been performed of the cervical and thoracic spines as well as the left shoulder; however, he offered no documentation by Dr. Chlysta that addressed the cause of appellant's injury or related such injury to factors of his employment.

In a letter dated September 3, 1998, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish his claim. Among other medical evidence, the Office particularly requested reports from the MRI taken as a result of the incident on February 12, 1998. Appellant was allotted 30 days for a response.¹

¹ The Office did not receive any further medical evidence within the allotted time frame. Appellant submitted additional medical evidence to the Office following the October 5, 1998 decision. The Board's jurisdiction is limited to a review of the medical evidence which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may wish to request reconsideration and submit the new evidence to the Office for adjudication.

By decision dated October 5, 1998, the Office denied appellant's claim on the grounds that he had not established fact of injury within the meaning of the Federal Employees' Compensation Act. The Office accepted that the claimed event occurred as alleged but noted that appellant had not established that a condition had been diagnosed in connection with the incident.

An employee seeking benefits under the Act 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 filed within the applicable time limitation 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 and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.³

The Office, in determining whether an employee actually sustained an injury in performance of duty, first analyzes whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. In this case, the Office accepted that the first component, the employment incident, occurred as alleged.⁴ The second component is whether the employment incident caused a personal injury and this generally can only be established 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.⁵

In the present case, appellant initially submitted little evidence in support of his claim for a personal injury sustained in the performance of duty. The Office notified appellant of this defect in the record and allowed 30 days for a response. Prior to the October 5, 1998 decision, the Office had only received the February 26, 1998 letter from Dr. Chlysta that appellant had undergone an MRI examination. Appellant did not submit a rationalized medical opinion required to establish a causal relationship between the alleged incident and any medical condition diagnosed on examination. Because appellant failed to submit any such medical evidence to support that he sustained an injury in the performance of duty, the Board finds that he failed to meet his burden of proof.

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

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

The decision of the Office of Workers' Compensation Programs dated October 5, 1998 is hereby affirmed.

Dated, Washington, D.C.
March 28, 2000

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member