

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILMA J. EVERETTE and U.S. POSTAL SERVICE,
POST OFFICE, Milwaukee, WI

*Docket No. 99-1197; Submitted on the Record;
Issued October 5, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury in the performance of duty.

On September 29, 1998 appellant, then a 52-year-old distribution clerk, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that her employment aggravated her upper back arthritis. She noted that she was aware initially of her condition and that it was aggravated by her employment in March 1998. The employing establishment noted on the reverse side of the form that appellant stopped work on September 29, 1998.

By letter dated October 19, 1998, the Office of Workers' Compensation Programs advised appellant that she needed to submit additional information regarding her claim for compensation, including a medical report from her treating physician that describes her symptoms, renders a diagnosis and the doctor's opinion as to the relationship between the diagnosed condition and her employment.

On November 10, 1998 appellant stated that "The recurrence (of disability) is from previous injury, date October 1986 – with the carpal tunnel, chronic pain and fibromyalgia (sic), shoulder pain tendinitis (sic)." She noted that she was unaware of her arthritis until it was revealed through an x-ray and bone scan.

By decision dated January 6, 1999, the Office denied appellant's claim on the grounds that she failed to submit evidence in support of her claim.

The Board has duly reviewed the case record in the present appeal and finds that the Office properly determined, in its January 6, 1999 decision, that appellant failed to meet her burden of proof in establishing fact of injury.

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

¹ 5 U.S.C. §§ 8101-8193.

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 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 essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

Although the Office advised appellant on October 19, 1998 regarding the need to submit a medical report that contains a diagnosis and a rationalized medical opinion relating appellant’s condition to her employment, appellant did not submit additional medical evidence within the 30-day time period allotted prior to the issuance of the Office’s January 6, 1999 decision. Consequently, appellant has not submitted sufficient medical evidence to meet her burden of proof in establishing that her employment caused or aggravated her alleged arthritis.

The January 6, 1999 decision of the Office of Workers’ Compensation Programs is affirmed.⁴

Dated, Washington, DC

October 5, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

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

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ The Board notes that this case record contains evidence which was submitted subsequent to the Office’s January 6, 1999 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).