

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of YVONNE McNEILL and U.S. POSTAL SERVICE,  
MORGAN GENERAL MAIL FACILITY, New York, NY

*Docket No. 00-2047; Submitted on the Record;  
Issued April 27, 2001*

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DECISION and ORDER

Before BRADLEY T. KNOTT, A. PETER KANJORSKI,  
PRISCILLA ANNE SCHWAB

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

On February 1, 2000 appellant, then a 45-year-old casual clerk in temporary-duty status, filed a traumatic injury claim, alleging that she had hit her head while pushing a postcard on an elevator. Appellant sought care at the employing establishment's medical unit the same day. A bump on her forehead was noted. Appellant continued to work following her injury, but stopped work on March 9, 2000. She was terminated on March 15, 2000 due to disciplinary action. Appellant's temporary appointment was set to expire on March 30, 2000.

In support of her claim, appellant submitted a March 9, 2000 disability slip from Dr. D. De Guzman, an internist, who indicated that appellant had been under his care for a severe bump on the right side of the head from March 9 through March 31, 2000. She was released to return to work on April 1, 2000. An undated and unsigned duty status report which the employing establishment received February 3, 2000 indicated a diagnosis of head trauma.

In a letter dated March 30, 2000, the Office of Workers' Compensation Programs requested that Dr. De Guzman provide a comprehensive report including his opinion supported by a medical explanation as to how the reported work incident caused or aggravated the claimed injury. The Office advised appellant that she was responsible for ensuring that all requested information was provided and that her case would be held open for 30 days to afford her the opportunity to submit such medical evidence. No further evidence was received.

In a May 18, 2000 decision, the Office denied appellant's claim for compensation finding that the evidence of record failed to establish that an injury was sustained as alleged.

The Board has duly reviewed the case record in the present appeal and finds that appellant has established that she sustained an injury in the performance of duty on February 1,

2000, but that appellant has not established that she sustained a specific condition which caused disability as of March 9, 2000.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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.<sup>2</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit sufficient evidence, generally in the form of medical evidence, to establish that the employment incident caused a personal injury. An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or a specific condition for which compensation is claimed are causally related to the injury.<sup>4</sup>

There is no dispute that appellant is a federal employee, that she timely filed her claim for compensation benefits and that the workplace incidents or exposure occurred as alleged, *i.e.* that appellant hit her head while pushing a postcart on an elevator. There is also no dispute but that appellant sustained a bump on her forehead and immediately sought medical attention at the employing establishment's health unit on the day of injury, where the bump on the forehead was noted.

The Office's regulations define traumatic injury as follows:

*"Traumatic injury means a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected."*<sup>5</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *See Louise R. Garnett*, 47 ECAB 639 (1996).

<sup>5</sup> 20 C.F.R. § 10.5(ee) (1999).

As the Board explained in *Pendleton*,<sup>6</sup> the evidence required to establish fact of injury depends on the individual circumstances of each case.

“Fact of injury is, generally, easily established in a situation where not only is there no dispute that the employment incident occurred in the performance of duty as alleged, but the employees’ injury is readily apparent, *i.e.*, amputation, laceration, abrasion, bruise, swelling, etc. Under these circumstances, the Office may determine that minimal evidence is required to establish fact of injury.”

In the present case, the Board finds that appellant did sustain a traumatic injury on February 1, 2000 as she sustained a head bump caused by an accepted incident of employment.

Appellant did not stop work after the February 1, 2000 injury until March 9, 2000. In this case appellant has not established, however, that a specific diagnosed condition resulting from the February 11, 2000 injury caused her alleged disability commencing on March 9, 2000. The medical evidence appellant submitted is insufficient because it does not contain a rationalized, probative opinion from a physician sufficient to establish that appellant had a condition or disability as of March 9, 2000 causally related to the employment injury. Dr. Guzman merely noted that he had been treating appellant for a severe bump on the right side of the head from March 9 through March 31, 2000, and that appellant had been released to return to work on April 1, 2000. Dr. Guzman did not otherwise offer a diagnosis of appellant’s condition. Most importantly, Dr. Guzman failed to provide any medical explanation as why appellant was disabled as of March 9, 2000. He did not explain why appellant was able to work from February 1, until March 9, 2000, but then became disabled due to a diagnosed condition.

As there is no reasoned medical evidence explaining why appellant’s condition or disability after March 9, 2000 were caused by the February 1, 2000 employment injury, appellant has not met her burden of proof to establish entitlement to benefits after March 9, 2000.

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<sup>6</sup> *Supra* note 2.

The May 18, 2001 decision of the Office of Workers' Compensation Programs is modified to accept fact of injury and is otherwise affirmed.

Dated, Washington, DC  
April 27, 2001

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

Priscilla Anne Schwab  
Alternate Member