

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DONALD R. TISDALE and U.S. POSTAL SERVICE,  
MAIN POST OFFICE, Columbus, OH

*Docket No. 01-47; Submitted on the Record;  
Issued July 25, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,  
PRISCILLA ANNE SCHWAB

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

On June 22, 2000 appellant, then a 43-year-old mail processor, filed a claim for occupational disease alleging that factors of federal employment caused back strain with cervical conditions.

By letter dated July 24, 1997, the Office of Workers' Compensation Programs advised appellant that the information he had submitted was insufficient to establish that he sustained an occupational disease. The Office requested that appellant submit medical records pertaining to his condition including copies of all treatment notes and test results. The Office also noted that the medical evidence of record did not include a diagnosis of any neck or cervical complaints. The Office had accepted a prior claim for a lower back condition and stated that, if appellant believed that his current condition was related to that condition he should file a recurrence of disability claim. The Office further advised appellant that, because his recent medical evidence noted a neck condition, his claim of June 22, 2000 would be considered a claim for a neck injury.<sup>1</sup>

By decision dated August 24, 2000, the Office denied appellant's claim.

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained an injury.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of his or her claim including the fact that the

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<sup>1</sup> In a report dated January 3, 2000, Dr. Emily J. Yu, physiatrist, stated that she had examined appellant for low back pain and neck pain.

<sup>2</sup> 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 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>3</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>4</sup>

In order to determine whether an employee actually sustained an injury in the performance of his 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.<sup>5</sup> The employee has the burden of establishing the occurrence of the alleged injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence. An employee has not met this burden when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim.

The second requirement to establish fact of injury is that the employee must submit sufficient evidence, usually in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>6</sup> As part of this burden, the employee must submit rationalized medical evidence based upon a complete and accurate factual and medical background showing a causal relationship between the current disabling condition and the accepted employment-related condition.<sup>7</sup>

In this case, the medical evidence of record did not include a diagnosis of either a neck condition or of a cervical condition caused by appellant’s employment. The January 3, 2000 report of Dr. Yu merely notes appellant’s subjective complaints of pain associated with work and other activities but does not relate his pain to an injury or employment factors. Absent any medical evidence diagnosing a condition causally related to factors of appellant’s federal employment, appellant has failed to establish that she sustained an injury in the performance of duty.

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<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Elaine Pendleton*, *supra* note 3.

<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> *Herman W. Thorton*, 39 ECAB 875, 887 (1988); *Henry L. Kent*, 34 ECAB 361, 366 (1982); *Steven J. Wagner*, 32 ECAB 1446 (1981).

The August 24, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
July 25, 2001

David S. Gerson  
Member

A. Peter Kanjorski  
Alternate Member

Priscilla Anne Schwab  
Alternate Member