

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VIOLET A. PHILLIPS and U.S. POSTAL SERVICE,
POST OFFICE, Johnson City, TN

*Docket No. 00-2263; Submitted on the Record;
Issued June 4, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

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

The Board has duly reviewed the case record and finds that appellant failed to meet her burden of proof to establish that she sustained an injury while in the performance of duty.

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "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.¹ In order to meet her burden of proof to establish the fact that she sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that she actually experienced the employment injury or exposure at the time, place and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.² The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.³ The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish a causal relationship.⁴

¹ *Robert J. Krstyen*, 44 ECAB 227, 229 (1992); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

² *Id.*

³ *Linda S. Jackson*, 49 ECAB 486, 488 (1998).

⁴ *Id.*

On April 4, 2000 appellant, then a 54-year-old rural carrier, filed a traumatic injury claim alleging that, on March 31, 2000, as she was turning to get out of her car, she felt a sharp pain in her hip-buttock area.

Appellant submitted progress notes dated April 3, 4, 6 and 13, 2000 which document that she sought treatment for back pain and diagnose right sciatica and low back strain. X-rays of appellant's lumbar spine dated April 4, 2000 show degenerative changes at L5-S1. Appellant submitted forms dated April 4, 6 and 17, 2000 and signed by a physician whose name is illegible. The physician diagnosed sciatica and back strain and prescribed lifting, standing, sitting and walking restrictions. In the April 6, 2000 form, the doctor checked the "yes" box that the history of injury given to him by appellant corresponded to her complaints of low back pain and pain in the right leg and the diagnosis was due to the injury.

By letter dated April 28, 2000, the Office requested additional information from appellant, including a medical report from her treating physician explaining how her medical condition resulted from her work injury.

Appellant submitted an additional medical report dated April 13, 2000 which diagnosed low back strain, resolving and prescribed light-duty work until April 17, 2000.

By decision dated May 31, 2000, the Office denied the claim on the grounds that the evidence was insufficient to establish that appellant's condition was caused by the injury.

None of the evidence appellant presented to establish her claim addresses whether her medical condition resulted from her employment. The progress notes merely diagnose sciatica or low back strain and do not describe how her condition happened or if it is work related. The forms also diagnose back strain and sciatica and prescribe work restrictions but do not explain whether the condition occurred at work. The April 4, 2000 x-rays stated that appellant had degenerative changes at L5-S1 but do not address whether the condition was work related.

The Office provided appellant with the opportunity to submit the evidence necessary to establish her claim, but appellant did not comply. Inasmuch as none of the evidence appellant submitted relates her low back strain or sciatica to her work, appellant has not established that she sustained a back injury at work.

The May 31, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.⁵

Dated, Washington, DC
June 4, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁵ Because appellant filed her appeal with the Board on July 3, 2000, the decision of the Office hearing representative issued on November 3, 2000 is null and void. The Office does not retain jurisdiction to render a further decision regarding a case on appeal until after the Board relinquishes its jurisdiction. *See Noe L. Flores*, 49 ECAB 344, 346-47 n. 1 (1998).