U. S. DEPARTMENT OF LABOR

# Employees' Compensation Appeals Board

---

In the Matter of MICHELE SAVOY and DEPARTMENT OF TRANSPORTATION, MARITIME ADMINISTRATION, Washington, D.C.

*Docket No. 01-812; Submitted on the Record;*
*Issued October 29, 2001*

---

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained a right wrist condition in the performance of duty.

On October 26, 2000 appellant then a 48-year-old secretary filed an occupational injury claim alleging that her repetitive use of typewriters, computers and calculators, and her filing duties caused her to develop a right wrist condition. Appellant indicated that she first realized that she developed the condition causally related to her employment on July 9, 1997. Appellant stopped work sometime after the claimed injury and returned on May 25, 2000.

On November 3, 2000 the Office of Workers' Compensation Programs advised appellant that the information submitted was insufficient to establish the claim. The Office requested additional documentation including medical evidence outlining the dates of examination; history of injury given to the physician; a description of findings and diagnosis and medical rationale as to the causal relationship between the disability and the injury as reported. Appellant was afforded 30 days to submit such evidence. In a subsequent letter dated November 28, 2000, the Office advised appellant that the claim remained deficient and that the requested information was required in addition to a factual statement addressing her claimed employment-related exposure. Appellant was advised that if she did not understand the Office's request that she should seek immediate clarification. The Office afforded her an additional 30 days within which to submit evidence in support of her claim.

By decision dated January 9, 2001, the Office denied appellant's claim on the grounds that the evidence was not sufficient to meet the guidelines for establishing that she sustained an injury on July 9, 1997 as required by the Federal Employees' Compensation Act.

The Board finds that appellant has failed to meet her burden of proof in establishing that she sustained a right wrist condition in the performance of duty.

An employee seeking benefits under the Act[1] has the burden of proof to establish the essential elements of her claim.[2] When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.[3]

In order to determine whether an employee actually sustained an injury in the performance of 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. The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[4]

In this case, appellant did not submit any evidence in support of her claim beyond the claim form alleging a traumatic injury. As the record is devoid of any factual or medical evidence to establish that appellant sustained an occupational injury on July 9, 1997, the two prongs of the fact-of-injury test have not been established.[5] Appellant has not met her burden of proof.

[1] 5 U.S.C. §§ 8101-8193.

[2] *See Margaret A. Donnelley*, 15 ECAB 40 (1963).

[3] *See generally John J. Carlone*, 41 ECAB 354 (1989); *see also* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15), 10.5(a)(16) ("traumatic injury" and "occupational disease or illness" defined). *See Margaret A. Donnelley*, *supra* note 2.

[4] *John J. Carlone*, *supra* note 3.

[5] With appellant's request for an appeal, appellant submitted factual and medical evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from having the Office consider this evidence as part of a reconsideration request.

The decision of the Office of Workers' Compensation Programs dated January 9, 2001 is affirmed.

Dated, Washington, DC
October 29, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member