

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ALLEN F. BISHOP and DEPARTMENT OF COMMERCE,  
BUREAU OF THE CENSUS, Dallas, TX

*Docket No. 01-1287; Submitted on the Record;  
Issued January 4, 2002*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

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

On August 15, 2000 appellant, then a 39-year-old enumerator, filed a claim for a dog bite on her ankle sustained on November 13, 1999 while working. She submitted a bill from the Northeast Medical Center Hospital for services rendered on November 13, 1999.

By letter dated September 15, 2000, the Office of Workers' Compensation Programs advised appellant that it needed a medical report containing a description of findings and a diagnosis.

By decision dated October 17, 2000, the Office found that appellant had not established that she sustained an injury on November 13, 1999 because there was no medical evidence showing that any condition was diagnosed in connection with the November 13, 1999 incident.

The Board finds that appellant has not established that she sustained an employment injury on November 13, 1999.

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<sup>2</sup> including the fact that the individual is an "employee of the United States" within the meaning of the Act,<sup>3</sup> that the claim was timely filed within the applicable time limitation period of the Act,<sup>4</sup> that an injury was

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> See *Daniel R. Hickman*, 34 ECAB 1220 (1983); 20 C.F.R. § 10.115.

<sup>3</sup> *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

<sup>4</sup> 5 U.S.C. § 8122.

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>5</sup>

The evidence establishes, and the Office accepted, that appellant was an employee of the United States on November 13, 1999, that her claim was timely filed, and that the November 13, 1999 incident occurred as alleged by appellant.

To accept fact of injury in a traumatic injury case, the Office, in addition to finding that the employment incident occurred in the performance of duty as alleged, must also find that the employment incident resulted in an “injury.” The term “injury” as defined by the Act, as commonly used, refers to some physical or mental condition caused either by trauma or by continued or repeated exposure to or contact with, certain factors, elements or conditions.<sup>6</sup> The question of whether an employment incident caused a personal injury generally can be established only by medical evidence.<sup>7</sup> The Office’s procedure manual states that a claim may be accepted without a medical report when certain criteria are satisfied: “(a) The condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting or animal bite); (b) The injury was witnessed or reported promptly and no dispute exists as to the fact of injury; and (c) No time was lost from work due to disability.”<sup>8</sup>

Appellant has met two of the three criteria set forth above: the injury was minor and no time was lost from work. However, appellant stated on her claim form that the injury was not witnessed and her claim form was filed more than nine months after the alleged injury. Appellant stated that previous forms were completed in November 1999, but the case record contains no such forms.

As appellant did not lose time from work, what she could receive under the Act is payment for medical treatment. She submitted a bill for medical treatment rendered on November 13, 1999, but this bill does not indicate that the treatment was for a dog bite. Without such evidence, the bill is not payable and appellant has not established that she sustained an injury within the definition of the Act on November 13, 1999.

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<sup>5</sup> See *Daniel R. Hickman*, *supra* note 2.

<sup>6</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>7</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>8</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3d (June 1995).

The October 17, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
January 4, 2002

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member