

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHARLOTTE THOMPSON and U.S. POSTAL SERVICE,  
POST OFFICE, Brooklyn, NY

*Docket No. 01-2250; Submitted on the Record;  
Issued May 7, 2002*

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DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish that she sustained an injury in the performance of duty.

On May 29, 2001 appellant, then a 53-year-old motor vehicle operator, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1). She alleged that on May 16, 2001 she sustained sun poisoning and fungal dermatitis on both forearms from exposure to the sun. The employing establishment checked the box "no" in response to whether the facts about this injury agreed with statements of the employee and/or witness. Appellant did not stop work.

By letter dated June 21, 2001, the employing establishment controverted the claim stating that appellant drove to and from work, performed household chores and worked outside, noting that these factors alone could have caused appellant's fungal/actinic dermatitis. The employing establishment stated that appellant did not file her claim until May 29, 2001 when she was billed by the medical unit. It was also noted that appellant requested that her supervisor call the medical center to determine the type of health insurance coverage that would be accepted. Appellant submitted two treatment notes from a physician whose signature is illegible, dated May 30 and June 7, 2001. They diagnosed actinic dermatitis due to sun and fungal dermatitis. Appellant was advised to use lotisone cream, Claritin for itch and wear a long sleeved shirt to protect herself from the sun. No discussion was made of causal relation.

By letters dated July 5, 2001, the Office of Workers' Compensation Programs advised appellant of the additional factual and medical evidence needed to establish her claim.

In a decision dated August 10, 2001, the Office denied appellant's claim since additional evidence was not received and the evidence of record was insufficient to establish that she sustained a job-related injury.

The Board has duly reviewed the case record and finds that appellant has not established that she sustained an injury in the performance of her federal duties as alleged.

A person who claims benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of her claim, including that she sustained an injury while in the performance of duty and that she had disability as a result.<sup>2</sup> In accordance with the Federal (FECA) Procedure Manual, in order to determine whether an employee actually sustained an injury in the performance of her duty, the Office begins with the analysis of whether "fact of injury" has been established. Generally, "fact of injury" consists of two components which must be considered one in conjunction with the other.

The first component to be established is that the employee actually experienced the employment incident or exposure which is alleged to have occurred.<sup>3</sup> 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 incident or exposure at the time, place and in the manner alleged.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.<sup>4</sup> 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.<sup>5</sup> The belief of claimant that a condition was caused or aggravated by the employment is not sufficient to establish a causal relationship.<sup>6</sup>

In this case, appellant has not submitted sufficient factual information to establish that she was injured in the course of her federal employment. Appellant alleged that she had sun poisoning and fungal dermatitis due to exposure to the sun, but did not explain how this occurred. The employing establishment denied that this was due to her employment. In letters dated July 5, 2001, the Office requested that appellant submit both factual and medical evidence to establish that her employment duties resulted in an injury; however, appellant did not submit any factual evidence or provide a statement of work events which she felt contributed to or aggravated her condition. Because the record is devoid of any factual evidence to establish that appellant's federal employment contributed to or aggravated her condition, the first prong of the fact-of-injury test has not been established. Appellant has not met her burden of proof.<sup>7</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Daniel R. Hickman*, 34 ECAB 1220 (1983); *see* 20 C.F.R. § 10.110(a).

<sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995).

<sup>4</sup> *John C. Carlone*, 41 ECAB 354 (1989); *see* 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" defined).

<sup>5</sup> *Lourdes Harris*, 45 ECAB 545 (1994); *see* *Walter D. Morehead*, 31 ECAB 188 (1979).

<sup>6</sup> *Manuel Garcia*, 37 ECAB 767 (1986).

<sup>7</sup> As appellant has not established the first prong, the second prong need not be addressed.

The August 10, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.<sup>8</sup>

Dated, Washington, DC

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May 7, 2002

Alec J. Koromilas  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>8</sup> After the issuance of the Office's August 10, 2001 decision, appellant submitted additional evidence. The Board may not consider new evidence for the first time on appeal. *See* 5 U.S.C. § 501(c)(3). However, appellant may submit such additional evidence in a request for reconsideration.