U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SUSAN V. BUTSCH and U.S. POSTAL SERVICE,
POST OFFICE, Cincinnati, OH

Docket No. 03-409; Submitted on the Record;
Issued April 2, 2003

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether appellant has established that she sustained an injury in the performance of duty.

On September 20, 2002 appellant, then a 54-year-old letter carrier, filed a traumatic injury claim alleging that on September 17, 2002 she sustained a contusion on the back of her head and left shin as a result of a motor vehicle accident. Appellant did not stop work. Appellant's claim was accompanied by a September 17, 2002 report from a physician whose signature is illegible indicating that she had a contusion of the scalp and left leg and a paracervical strain. The report also indicated appellant's ability to return to work on September 19, 2002 and her medications.

By letter dated October 8, 2002, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish her claim. The Office requested that appellant submit additional medical evidence supportive of her claim. Appellant did not respond.

In a November 26, 2002 decision, the Office found the evidence of record sufficient to establish that appellant actually experienced the claimed accident, but insufficient to establish that she sustained a condition caused by this incident. Accordingly, the Office denied appellant's claim for compensation.

The Board finds that appellant has failed to establish that she sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing that he or she sustained an injury while in the performance of duty.[2] In

[1] 5 U.S.C. §§ 8101-8193.

[2] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

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 that is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[3]

In this case, the Office accepted that the September 17, 2002 incident occurred as alleged. The Office, however, found the medical evidence of record insufficient to establish a causal relationship between a diagnosed condition and the incident. The only medical evidence of record is the September 17, 2002 report of a physician whose signature is illegible revealing that appellant sustained a contusion of the scalp and left leg and a paracervical strain. This report, however, failed to address whether these conditions were caused by the September 17, 2002 employment incident.

The Office advised appellant of the type of medical evidence required to establish her claim; however, she failed to submit such evidence. Appellant did not provide a rationalized medical opinion to describe or explain how the September 17, 2002 employment-related motor vehicle accident caused the claimed injury. As appellant has failed to submit any probative medical evidence establishing that she sustained an injury in the performance of duty, the Office properly denied her claim for compensation.

The November 26, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 2, 2003

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

[3] *See John J. Carlone*, 41 ECAB 354, 357 (1989).