

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CAROL PERRELET and DEPARTMENT OF THE TREASURY,
UNITED STATES CUSTOMS SERVICE, Miami, FL

*Docket No. 03-782; Submitted on the Record;
Issued June 16, 2003*

DECISION and ORDER

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

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

On April 12, 2002 appellant, then a 47-year-old customs inspector, filed a notice of traumatic injury alleging that on April 12, 2002 she tripped on a file system ledge and injured her right ankle.

By letter dated October 22, 2002, the Office of Workers' Compensation Programs informed appellant that the information submitted was insufficient to establish that she sustained an injury as alleged. The Office requested that appellant submit a physician's report containing dates of examination, a history of injury, a detailed description of the findings, results of tests, a diagnosis and a physician's rationalized medical opinion on the cause of her condition. The Office afforded appellant 30 days from the date of the letter to submit the additional evidence.

Appellant submitted a copy of a bill of service from a physician's office indicating that she had been treated on April 15, 2002 and was given a custom fitted air ankle brace. She submitted no additional evidence.

By decision dated December 9, 2002, the Office denied appellant's claim for compensation on the grounds that she did not establish fact of injury. The Office accepted that the claimed event occurred as alleged but noted that appellant had submitted no medical evidence in support of her claim.

The Board finds that appellant did not meet her burden of proof to establish that she sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States within the meaning of the Act, that the claim was

filed within the applicable time limitation of the Act, that an injury was 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.”¹ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.²

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. In this case, the Office accepted that the first component, the employment incident occurred as alleged.³

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁴

In this case, appellant initially submitted no medical evidence in support of her claim for a personal injury sustained in the performance of duty. The Office informed her of this defect in the record and allowed 30 days for a response. Appellant submitted a bill for an ankle brace but did not submit any medical evidence from a physician indicating that she had a condition, which required an ankle brace or that a brace was needed to treat an injury sustained at work. She alleged on appeal, that the Office “incorrectly filed” her documents because she had two claims open at the same time. Appellant’s own statement is irrelevant in establishing whether she sustained an injury in the performance of duty as alleged and, therefore, has no probative value.

The record does not contain any medical evidence submitted within the time allowed and, therefore, failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty. The Office properly denied her claim.⁵

¹ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

² *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

³ *Elaine Pendleton*, *supra* note 1.

⁴ *John M. Tornello*, 35 ECAB 234 (1983).

⁵ Appellant submitted additional evidence after the issuance of the Office’s December 9, 2002 decision, but the Board cannot consider such evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c).

The December 9, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
June 16, 2003

Alec J. Koromilas
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member