

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHRISTINE D. BROWN and DEPARTMENT OF THE AIR FORCE,
WARNER ROBINS AIR LOGISTICS CENTER, Robins AIR FORCE BASE, GA

*Docket No. 03-1806; Submitted on the Record;
Issued October 2, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury in the performance of duty on February 3, 2003.

On February 4, 2003 appellant, then a 46-year-old logistics management specialist, filed a traumatic injury claim alleging that she sustained an injury to her left knee. She stated that on February 3, 2003 she was at home, when she turned back the covers on her grandmother's bed, turned to leave the room and her left knee slipped out of place. Appellant indicated that her condition was related to an incident on June 28, 1995, when she injured her knees during mandatory sports participation while on temporary duty attending Squadron Officers School at another Air Force base.¹ She stated that she did not file a claim at that time because she was not aware she could file a claim for compensation. Appellant stated that since the incident on June 28, 1995 she had experienced pain in both knees.

By letter dated February 28, 2003, the Office of Workers' Compensation Programs advised appellant that she needed to submit medical evidence explaining how the incident that occurred at home on February 3, 2003 was causally related to her employment.

By decision dated April 4, 2003, the Office denied appellant's claim for an injury to her knees on February 3, 2003 on the grounds that the evidence of record was insufficient to establish that the February 3, 2003 incident occurred at the time and place and in the manner alleged and the medical evidence did not establish that appellant sustained a work-related medical condition.²

¹ In an emergency room report dated June 28, 1995, Dr. Stephen Cameron, an employing establishment physician, indicated that appellant sustained a left knee sprain while participating in sports.

² The record contains medical evidence submitted subsequent to the Office's April 4, 2003 decision. However, the jurisdiction of the Board is limited to the evidence that was before the Office at the time it issued its final decision; *see* 20 C.F.R. § 501.2(c).

The Board finds that appellant failed to meet her burden of proof to establish that she sustained an injury on February 3, 2003 causally related to her employment.

An employee seeking benefits under the Federal Employees' Compensation Act³ 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 timely filed within the applicable time limitation period 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.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.⁵ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

With respect to the first component of fact of injury, the Act⁷ provides for the payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty. The phrase "while in the performance of duty" in the Act, has been interpreted to be the equivalent of the commonly found prerequisite in workers' compensation law of "arising out of and in the course of employment."⁸ "Arising out of employment" tests the causal connection between the employment and the injury; "arising in the course of employment" relates to the time, place and work activity involved.⁹ For the purposes of determining entitlement to compensation under the Act, "arising in the course of employment," *i.e.*, performance of duty must be established before "arising out of the employment," *i.e.*, causal relation, can be addressed.¹⁰ The Board has stated: "[I]n the compensation field, to occur in the course of employment, in general, an injury must occur: (1) at a time when the employee may reasonably be said to be engaged in his or her master's business; (2) at a place where he or she may reasonably be expected to be in connection with the employment; and (3) while he or she was reasonably fulfilling the duties of his or her employment or engaged in doing something incidental thereto."¹¹

³ 5 U.S.C. §§ 8101-8193.

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Shirley A. Temple*, 48 ECAB 404 (1997).

⁶ *Id.*

⁷ 5 U.S.C. § 8102(a).

⁸ This construction makes the statute actively effective in those situations generally recognized as properly within the scope of workers' compensation law. *Bernard D. Blum*, 1 ECAB 1 (1947).

⁹ *See Eugene G. Chin*, 39 ECAB 598 (1988).

¹⁰ *Kenneth B. Wright*, 44 ECAB 176 (1992).

¹¹ *Allan B. Moses*, 42 ECAB 575 (1991).

In this case, appellant was not at work when she experienced a problem with her knee. She was at home performing a personal task, turning down the covers of her grandmother's bed. Therefore, the injury on February 3, 2003 did not occur in the course of her employment.

Appellant alleged that her knee condition on February 3, 2003 was causally related to an incident on June 28, 1995, when she was participating in mandatory sports activities while on temporary duty at another job location. However, the Office has not accepted any work-related injury in connection with the June 28, 1995 incident claimed by appellant. Furthermore, even if the Office had accepted such an injury, the medical evidence in this case does not explain how the February 3, 2003 knee condition was causally related to the June 28, 1995 incident. In order to satisfy his or her burden of proof, an employee must submit a physician's rationalized medical opinion on the issue of whether the alleged injury was caused by the employment incident.¹²

In a report dated February 3, 2003, Dr. Marvin E. Taylor, an employing establishment physician and a specialist in occupational medicine, diagnosed bilateral knee pain. However, he did not provide any specific diagnosis or any medical rationale explaining how appellant's condition was causally related to her employment or the 1995 work incident.

As appellant failed to establish that the knee injury that occurred at home on February 3, 2003 was causally related to her employment, she did not meet her burden of proof in establishing that she sustained an injury on February 3, 2003 in the performance of duty and the Office properly denied her claim.

The decision of the Office of Workers' Compensation Programs dated April 4, 2003 is affirmed.

Dated, Washington, DC
October 2, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

¹² Gary L. Fowler, 45 ECAB 365 (1994).