

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**JAMES R. FLINT, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Portland, ME, Employer**

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**Docket No. 05-587  
Issued: June 10, 2005**

*Appearances:*  
*James R. Flint, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Member  
DAVID S. GERSON, Alternate Member  
A. PETER KANJORSKI, Alternate Member

**JURISDICTION**

On January 11, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' decision dated November 23, 2004 which found that appellant did not sustain an injury in the performance of duty. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met his burden of proof in establishing that he sustained a traumatic injury in the performance of duty on October 7, 2004.

**FACTUAL HISTORY**

On October 7, 2004 appellant, then a 55-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on the same date, he was bitten by a dog and received a puncture wound and abrasions. Appellant's supervisor signed the claim form on October 7, 2004, indicated that appellant was injured on that day in the performance of duty, and noted that he was to receive medical care the next day. The supervisor checked a box on the claim form to

indicate that her knowledge of the facts about the claimed injury agreed with the statement provided by appellant. The supervisor also indicated that appellant did not stop work.

On October 19, 2004 the Office requested that appellant submit additional evidence in support of the claim.

By decision dated November 23, 2004, the Office denied appellant's claim on the grounds that he did not establish an injury as alleged. The Office found that the evidence was sufficient to show that the claimed event occurred as alleged. However, the Office found that there was no medical evidence supporting that the accepted employment incident caused a diagnosed condition.

### **LEGAL PRECEDENT**

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, 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<sup>2</sup> and that an injury was sustained in the performance of duty.<sup>3</sup> These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>5</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>6</sup>

### **ANALYSIS**

Appellant alleged that he was bitten by a dog in the performance of duty and sustained a puncture wound. There is no dispute that appellant was bitten by a dog at work on October 7, 2004 and sustained a puncture wound. The Board finds that the first component of fact of injury, the claimed incident -- that appellant was bit by a dog and sustained a puncture wound, occurred as alleged.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *James E. Chadden Sr.*, 40 ECAB 312 (1988).

<sup>4</sup> *Delores C. Ellyet*, 41 ECAB 992 (1990).

<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>6</sup> *Id.*

As the Office found in its November 23, 2004 decision, the evidence of record supports the fact that the claimed incident of a dog bite and puncture wound occurred during the performance of duty on October 7, 2004 at the time, place and in the manner alleged.

The case therefore rests on whether the dog bite and puncture wound incident at work on October 7, 2004 caused an injury. The Office denied appellant's claim stating that the evidence of record did not support a medical condition resulting from the alleged employment incident. Although causal relationship generally requires a rationalized medical opinion, the Office may accept a case without a medical report when one or more of the following criteria, as set forth in the Office's procedure manual,<sup>7</sup> are satisfied:

“(a) The condition reported is a minor one which can be identified on visual inspection by a lay person (e.g., burns, lacerations, 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.”

In the present case, the condition reported, a dog bite and puncture wound, meets the first criterion as the type of condition that can be identified on visual inspection by a lay person. There was no indication that wound was considered a serious condition as there is no indication that appellant lost any time from work. The first criterion is therefore satisfied.

The second criterion is also satisfied. Appellant filed the CA-1 on October 7, 2004, the day of the incident. Appellant's supervisor signed the Form CA-1 on the same day and indicated that appellant was injured on that day in the performance of duty and was going to receive medical care the next day. No dispute exists as to these facts. Appellant's supervisor further noted on the Form CA-1 that appellant did not stop work and that her knowledge of the injury agreed with the account provided by appellant. As the record indicates that appellant did not stop work and has not claimed disability due to this incident, the third criterion is also met. A medical report is therefore not necessary in this case. Accordingly, the Board finds that the record establishes that an injury occurred in the performance of duty on October 7, 2004.<sup>8</sup>

Because the Office made no findings as to whether appellant was entitled to reimbursement for medical expenses, the case will be remanded for appropriate findings on this issue. After such further development as it considers necessary, the Office shall issue a *de novo* decision on appellant's entitlement to benefits.

### **CONCLUSION**

The Board finds that the record establishes that an injury occurred in the performance of duty on October 7, 2004.

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<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3d(1)(a)-(c) (June 1995); see also *Timothy D. Douglas*, 49 ECAB 558 (1998).

<sup>8</sup> *Pearlene Morton*, 52 ECAB 493 (2001).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 23, 2004 is set aside and the case is remanded for further development consistent with this opinion.

Issued: June 10, 2005  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member