

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

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MELVIN L. GRIFFIN, Appellant

and

U.S. POSTAL SERVICE, TRANSPORTATION  
FACILITY, Duluth, GA, Employer

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**Docket No. 06-745  
Issued: June 8, 2006**

*Appearances:*  
*Melvin L. Griffin, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge

**JURISDICTION**

On February 10, 2006 appellant filed a timely appeal of a January 10, 2006 decision of the Office of Workers' Compensation Programs denying his claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has established an injury in the performance of duty on November 15, 2005.

**FACTUAL HISTORY**

On November 15, 2005 appellant, then a 52-year-old tractor trailer operator, filed a traumatic injury claim alleging that on that date he sustained a back injury when he lifted a trailer door. In a report dated November 15, 2005, an emergency room physician, Dr. Irene Ristic, provided a history that appellant was lifting a door on the back of a trailer and began having back pain. Dr. Ristic provided results on examination and diagnosed acute low back pain -- musculoskeletal pain.

In a form report (Form CA-16, authorization for examination and/or medical treatment) dated November 15, 2005, Dr. Ristic noted degenerative changes of the lumbosacral spine<sup>1</sup> and diagnosed back pain and “muscle [illegible] pain.” Dr. Ristic checked a box “yes” that the condition was caused by lifting a door on back of trailer.

By letter dated November 30, 2005, the Office advised appellant that he needed to submit additional evidence with respect to his claim, including a diagnosis of injury. In an undated form report (Form CA-20, attending physician’s report) received by the Office on December 9, 2005, Dr. Lawrence Sanders, an internist, indicated that appellant was examined on November 17 and December 1, 2005. Dr. Sanders provided a history of a back injury while lifting the back door of a truck, and he diagnosed acute exacerbation of low back pain. He checked a box “yes” that the condition was caused or aggravated by the employment activity. The employing establishment indicated that appellant returned to work on December 5, 2005.

By decision dated January 10, 2006, the Office denied appellant’s claim for compensation. The Office indicated that the employment incident occurred as alleged, but the medical evidence was not sufficient to establish the claim.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act has the burden of establishing the essential elements of 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.<sup>2</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>3</sup>

Congress, in providing a compensation program for federal employees, did not contemplate an insurance program against any and every injury, illness or mishap that might befall an employee contemporaneous or coincidental with his or her employment. Liability does not attach merely upon the existence of an employee-employer relation. Instead, Congress provided for the payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.<sup>4</sup> The phrase while in the

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<sup>1</sup> The record contains a November 15, 2005 x-ray report stating that appellant had moderate spondylitic changes at T12-L1 and mild spondylitic changes at L3-4 and L4-5.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990). 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. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury. See *John J. Carlone*, 41 ECAB 354, 356-57 (1989); *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

<sup>4</sup> *Mary Kokich*, 52 ECAB 239, 240 (2001).

performance of duty has been interpreted by the Board to be the equivalent of the commonly found prerequisite in workers' compensation law of arising out of and in the course of employment.<sup>5</sup>

### ANALYSIS

Appellant alleged that he sustained a back injury on November 15, 2005 when he lifted the door of a tractor trailer. The Office accepted that an employment incident occurred as alleged. Appellant sought treatment at a hospital emergency room and provided a history of lifting a trailer door at work. The medical evidence, however, is deficient in two respects: (1) it fails to provide a firm diagnosis; and (2) there is no narrative opinion on causal relationship between a diagnosed condition and the employment incident.

The emergency room physician, Dr. Ristic, noted low back pain, which is a description of the symptoms rather than a clear diagnosis of the medical condition.<sup>6</sup> Dr. Sanders reported that appellant had an acute exacerbation of low back pain, without providing further explanation. Moreover, it is well established that the checking of a box "yes" is of little probative value in establishing causal relationship.<sup>7</sup> While an opinion on causal relationship may not require extensive explanation, this is not a case of a "clear-cut" injury that requires no explanation.<sup>8</sup> Neither Dr. Ristic nor Dr. Sanders provided an opinion on causal relationship other than to check a box "yes." The x-ray results noted degenerative lumbar changes, for example, and the medical evidence must provide some explanation as to the nature and extent of any employment injury and how the diagnosed condition was caused by the employment incident.

It is appellant's burden of proof to establish his claim. In the absence of probative medical evidence on the relevant issue, the Board finds that appellant did not meet his burden of proof in this case.

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<sup>5</sup> *Kathryn A. Tuel-Gillem*, 52 ECAB 451, 452-53 (2001). In addressing this issue, the Board has stated that 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. *See id.*

<sup>6</sup> The Board notes that the employing establishment issued a Form CA-16. A properly executed Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *Elaine M. Kreymborg*, 41 ECAB 256, 259 (1989); *Pamela A. Harmon*, 37 ECAB 263, 264-65 (1986). The Office did not address the issue in the January 10, 2006 decision.

<sup>7</sup> *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).

<sup>8</sup> The Office has recognized that in certain "clear-cut" traumatic injuries, such as a fall from a scaffold with a broken arm, may require only an affirmative statement to establish causal relationship. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d)(2) (June 1995).

**CONCLUSION**

Appellant did not submit sufficient medical evidence to establish an injury in the performance of duty on November 15, 2005.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated January 10, 2006 is affirmed.

Issued: June 8, 2006  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board