

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

S.L., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Long Beach, CA, Employer**

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**Docket No. 07-388
Issued: June 25, 2007**

Appearances:
Appellant, 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
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 16, 2006 appellant timely appealed the November 7, 2006 merit decision of the Office of Workers' Compensation Programs which denied her traumatic injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the case.

ISSUE

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

FACTUAL HISTORY

On September 20, 2006 appellant, then a 39-year-old city carrier, filed a traumatic injury claim alleging that on September 15, 2006 she sustained an injury to her right leg and lower back when she twisted her body as a result of a dog chasing a Frisbee thrown in her vicinity. Included with the claim were copies of two "[d]ocumentation of [m]edical [i]mpairment" notes from Kaiser Permanente dated September 16 and 18, 2006. The September 16, 2006 note stated that

appellant would be unable to work for two days. The September 18, 2006 note was partially illegible but included the statement “intermittent standing and sitting OK.”

In September 29, 2006 letter, the Office asked appellant for additional medical information in order to process her claim. Appellant did not respond.

By November 7, 2006 decision, the Office denied appellant’s claim on the grounds that the medical notes submitted did not provide a diagnosis causally related to the incident and, therefore, did not establish injury.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an “employee of the United States” within the meaning of the Act and 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 or specific condition for which compensation is claimed is causally related to the employment injury.¹

In order to determine whether an employee sustained a traumatic 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 that 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.² The second component is whether the employment incident caused a personal injury.³ The term injury as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.⁴ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵

ANALYSIS

Appellant alleged that she sustained a right leg and lower back injury on September 15, 2006 in the performance of her duties when she twisted her body in response to a dog chasing a

¹ *Anthony P. Silva*, 55 ECAB 179 (2003).

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *Elaine Pendleton*, *supra* note 2; 20 C.F.R. § 10.5(a)(14).

⁵ *See Robert G. Morris*, 48 ECAB 238 (1996). A physician’s opinion on the issue of causal relationship must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant’s specific employment factors. *Id.*

Frisbee in her vicinity. The Office accepted that the employment incident occurred as alleged. The case depends on whether the employment incident caused a personal injury. The Board holds that the medical evidence does not establish that appellant had a diagnosed condition causally related to the accepted incident and, therefore, does not establish a personal injury.

The medical notes submitted failed to provide a diagnosis causally related to the accepted incident. The September 16, 2006 note stated that appellant would be unable to work for two days but failed to provide a diagnosed condition or injury. The September 18, 2006 note stated that “intermittent standing and sitting OK” but also failed to included the requisite diagnosis of a condition. These two notes were the only medical documents submitted. It is appellant’s burden to submit sufficient evidence to establish that she sustained an injury. As none of the medical documents contained explanation of how a diagnosed condition was caused by the accepted incident, the Board finds that appellant has failed to meet her burden of proof to establish that she suffered a personal injury in the course of her employment.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the November 7, 2006 decision of the Office of Workers’ Compensation Programs is affirmed.

Issued: June 25, 2007
Washington, DC

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

David S. Gerson, Judge
Employees’ Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees’ Compensation Appeals Board