

ISSUE

The issue is whether appellant met her burden of proof in establishing that she sustained a traumatic injury in the performance of duty.

FACTUAL HISTORY

On September 19, 2006 appellant, then a 53-year-old rural route carrier, filed a traumatic injury claim alleging that she pulled a muscle in her right arm and sustained bruises to her arms and legs when, on September 18, 2006 a motorcyclist lost control and struck her postal delivery vehicle. She stopped work on October 10, 2006.

On September 26, 2006 the Office requested additional information concerning appellant's claim. It advised appellant that it was crucial to her claim that she submit a physician's opinion explaining how the employment incident caused or aggravated the claimed injury.

By decision dated November 6, 2006, the Office denied appellant's claim on the grounds that there was no medical evidence establishing a causal relationship between the accepted employment incident and a diagnosed medical condition.²

LEGAL PRECEDENT

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 disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

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.⁶ Second, the

² Following the Office's denial of the claim, appellant submitted a November 7, 2006 note, in addition to examination forms from Marilyn Williams, a nurse practitioner.

³ 5 U.S.C. §§ 8101-8193.

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

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.⁸ The opinion of the physician must be based on a complete factual and medical background of the claimant⁹ and must be one of reasonable medical certainty¹⁰ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹¹

ANALYSIS

The Board finds that appellant did not meet her burden of proof in establishing that she sustained a traumatic injury in the performance of duty. The evidence establishes that on September 18, 2006, a motorcycle struck appellant's postal vehicle. However, the Board finds that appellant has not submitted medical evidence supporting that the established employment incident caused a personal injury.

On September 26, 2006 the Office advised appellant that it was crucial to her claim that she submit a physician's opinion explaining how the employment incident caused or aggravated the claimed injury. However, the record does not reflect that, prior to the Office's November 6, 2006 decision appellant submitted medical evidence from a physician addressing how the September 18, 2006 work incident caused or aggravated appellant's claimed injury. As noted above, to meet her burden of proof, appellant must submit medical evidence establishing that the employment incident caused an injury.

Consequently, appellant has not met her burden of proof in establishing her claim because she has not submitted medical evidence from a physician which explains how the September 18, 2006 work incident caused or aggravated her claimed injury.¹²

⁷ *Id.*

⁸ *Conard Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁹ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

¹⁰ *John W. Montoya*, 54 ECAB 306 (2003).

¹¹ *Judy C. Rogers*, 54 ECAB 693 (2003).

¹² Following the Office's November 6, 2006 decision, appellant submitted a nurse's report. Also, on the present appeal before the Board, she submitted medical evidence from a physician. The Board, however, notes that it cannot consider this evidence for the first time on appeal because the Office did not consider this evidence in reaching a final decision. The Board's review is limited to the evidence in the case record at the time the Office made its final decision. 20 C.F.R. § 501.2(c). This decision of the Board does not preclude appellant from submitting additional evidence to the Office as part of a reconsideration request.

CONCLUSION

The Board finds that appellant did not meet her burden of proof in establishing that she sustained a traumatic injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the November 6, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 23, 2008
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