

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DWIGHT L. McKAY and U.S. POSTAL SERVICE,  
POST OFFICE, Springfield, Ill.

*Docket No. 98-356; Submitted on the Record;  
Issued July 12, 1999*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether the injury appellant sustained on May 6, 1997 while playing softball occurred in the performance of duty.

The facts of this case are not in dispute. Appellant was in a temporary duty status at the U.S. Postal Service Technical Training Center in Norman, Oklahoma, and was injured after training hours in a softball game on the premises of that establishment. The training center provided a playing area, balls and bats. Appellant was not required to participate in the game, but this activity and other recreational activities were made available by the training center. By decision dated August 15, 1997, the Office of Workers' Compensation Programs found that appellant's injury did not occur in the performance of duty, as it was not reasonably incidental to the duties of his temporary assignment and he was not required to participate.

The Board finds that the injury appellant sustained on May 6, 1997 while playing softball did not occur in the performance of duty.

Traveling employees on temporary-duty assignments are generally within the course of employment continuously during the trip. However, when the employee deviates from the normal incidents of his or her trip and engages in activities, personal or otherwise, which are not reasonably incidental to the duties of the temporary assignment, the employee ceases to be under the protection of the Federal Employees' Compensation Act.<sup>1</sup>

In the present case, appellant engaged in a recreational activity not required by the employer<sup>2</sup> -- softball -- while on his temporary-duty assignment. The Board has held that

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<sup>1</sup> *Ronelle Smith*, 47 ECAB 781 (1996).

<sup>2</sup> Coverage is afforded where participation in a recreational activity is expressly or impliedly required by the employer. *Archie L. Ransey*, 40 ECAB 1251 (1989).

activities such as racquetball<sup>3</sup> or jogging<sup>4</sup> are personal, recreational deviations and not reasonably incidental to a temporary-duty assignment. While these activities, unlike appellant's, did not occur on the premises of the employer, the Board has also found that the provision of a field and its maintenance, and of bats and balls is not enough to bring a softball game within the course of employment.<sup>5</sup> Appellant's injury on May 6, 1997 did not occur in the performance of duty.

The decision of the Office of Workers' Compensation Programs dated August 15, 1997 is affirmed.

Dated, Washington, D.C.  
July 12, 1999

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>3</sup> *Lawrence J. Kolodzi*, 44 ECAB 818 (1993).

<sup>4</sup> *Evelyn S. Ibarra*, 45 ECAB 840 (1994).

<sup>5</sup> *Kenneth B. Wright*, 44 ECAB 176 (1992).