

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICK J. BRIC and U.S. POSTAL SERVICE,
COTTAGE GROVE POST OFFICE, Cottage Grove, MN

*Docket No. 98-1666; Submitted on the Record;
Issued February 22, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant met his burden of proof in establishing that he sustained an injury in the performance of duty on November 1, 1997, as alleged.

On November 7, 1997 appellant, then a 54-year-old letter carrier, filed a claim for a traumatic injury (Form CA-1) alleging that on November 1, 1997 he sustained an injury to the left side of his lower back as a result of sliding a mail tray in the performance of his duties. By decision dated March 11, 1998, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that he did not establish that he sustained an injury within the meaning of the Federal Employees' Compensation Act.¹ The Office found that, although the November 1, 1997 incident occurred at the time, place and in the manner alleged, appellant did not submit medical evidence establishing that an injury resulted from the employment incident.

The Board has duly reviewed the case record in the present appeal and finds that the Office properly determined that appellant failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty on November 1, 1997, as alleged.

An employee seeking benefits under the Act² 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 disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³

¹ 5 U.S.C. § 8101(5).

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989); *see also Daniel R. Hickman*, 34 ECAB 1220 (1983).

There is no dispute that appellant is a federal employee, that he timely filed his claim for compensation benefits, and that the incident occurred as alleged. However, the Board finds that the medical evidence is insufficient to establish that appellant sustained an injury in the performance of duty on November 1, 1997. Appellant's claim form reveals that he sought treatment from Dr. Doug Harden, a chiropractor, on November 4, 1997. The Board notes that Dr. Harden would only be deemed a physician under the Act if he diagnosed a subluxation as demonstrated by x-ray to exist.⁴ However, the case record is devoid of any reports from Dr. Harden. Although the case record contains medical notes entitled "Workers' Comp[ensation]," indicating that appellant lifted trays at work on November 1, 1997 injuring his back and that his condition had improved, these notes were not signed by a qualified physician and therefore do not constitute competent medical evidence.⁵

In response to a January 30, 1998 letter from the Office requesting additional medical evidence, appellant resubmitted the "Workers' Comp[ensation]" medical notes and also submitted a report by a Dr. D. Piper, Jr., dated January 14, 1998. Dr. Piper reported that he treated appellant for chronic back pain and noted that appellant worked in a light-duty capacity, with lifting restrictions of no more than 20 pounds. The doctor diagnosed chronic low back pain. However, this report is of diminished probative value as Dr. Piper did not describe the November 1, 1997 employment incident, did not attribute appellant's back condition to said incident and did not explain why the condition was so debilitating as to preclude appellant from performing his regular duties.

As appellant has not presented any rationalized medical opinion evidence establishing that he sustained a back injury or other injury causally related to the November 1, 1997 employment incident, he has failed to meet his burden of proof.⁶

⁴ 5 U.S.C. § 8101(2).

⁵ *James L. Long*, 40 ECAB 538 (1989); *Walter A. Fundinger, Jr.*, 37 ECAB 200 (1985).

⁶ As part of the burden of proof, a claimant must present rationalized medical evidence, based upon a specific and accurate history; see *Katherine J. Friday*, 47 ECAB 591 (1996).

The decision of the Office of Workers' Compensation Programs dated March 11, 1998 is hereby affirmed.

Dated, Washington, D.C.
February 22, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member