

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SHINEKIA LEWIS and DEPARTMENT OF VETERANS AFFAIRS,  
MEDICAL CENTER, St. Albans, NY

*Docket No. 98-2529; Submitted on the Record;  
Issued February 16, 2000*

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DECISION and ORDER

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

The issue is whether appellant met her burden of proof in establishing that she sustained an injury in the performance of duty on February 13, 1998.

The Board has duly reviewed the case record in the present appeal and finds that the Office of Workers' Compensation Programs properly determined, in its June 3, 1998 decision, that appellant failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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.<sup>2</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

There is no dispute that appellant is a federal employee, that she timely filed her claim for compensation benefits, and that the workplace incidents or exposure occurred as alleged.<sup>4</sup> However, the medical evidence is insufficient to establish that appellant sustained an injury in

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> Appellant alleged that she sustained left arm pain after slipping on a wet floor at work on February 13, 1998.

the performance of duty on February 13, 1998.<sup>5</sup> The only medical evidence in the record consists of a February 20, 1998 work restriction evaluation form from Dr. Marina Volpin, a Board-certified internist, which listed appellant's work limitations. Dr. Volpin did not diagnose any particular condition or indicate whether any condition was caused or aggravated by appellant's employment. The Office advised appellant of the type of medical evidence needed to establish her claim but she did not provide such evidence. Consequently, appellant has not submitted sufficient medical evidence to establish that she sustained an employment injury on February 13, 1998. In view of this, appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty on that date.<sup>6</sup>

The June 3, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
February 16, 2000

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Bradley T. Knott  
Alternate Member

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<sup>5</sup> Part of a claimant's burden of proof includes the submission of rationalized medical evidence based upon a complete factual and medical background showing causal relationship between the claimed injury and employment factors; *see Mary J. Briggs*, 37 ECAB 578 (1986); *Joseph T. Gulla*, 36 ECAB 516 (1985).

<sup>6</sup> On appeal, appellant has submitted new evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c).