

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA GERBER and U.S. POSTAL SERVICE,
POST OFFICE, Mankato, MN

*Docket No. 00-586; Submitted on the Record;
Issued January 9, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury in the performance of duty, as alleged.

The Board has duly reviewed the case record and finds that appellant has not established fact of injury.

On November 9, 1998 appellant, then a 46-year-old clerk, filed an occupational disease claim alleging that she suffered from deep aching, burning and stabbing pain in her left shoulder, extending into her left arm when keying mail at work. She stated that her work duties required more involvement of the left arm and shoulder. Appellant missed no time from work.

The Office of Workers' Compensation Programs previously accepted an occupational disease claim in 1995 after appellant developed bilateral-lateral epicondylitis and bilateral extensor tenosynovitis while federally employed. She received appropriate compensation as a result of her accepted conditions.

On December 9, 1998 the Office informed appellant that additional information was required to support her claim, including a comprehensive medical report explaining how of her shoulder condition was caused by employment factors. She was afforded 30 days within which to submit supportive evidence. The Office later extended this time by 15 days.

Appellant submitted a copy of her first occupational disease claim dated March 15, 1995, and medical evidence dated from March 13, 1995 to November 11, 1997, previously considered by the Office in support of the accepted claim. She did not submit any medical evidence pertaining to the condition claimed on November 9, 1998, within the time allotted by the Office.

By decision dated January 27, 1999, the Office denied the claim, stating that appellant did not establish that she sustained an injury.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 filed within the applicable time limitation 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."² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.³

The Office, in determining whether an employee actually sustained an injury in performance of duty, first analyses whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident, which is alleged to have occurred.⁴ The second component is whether the employment incident caused a personal injury and this generally can only be established by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁵

In this case, appellant has failed to meet her burden of proof, because she did not present any evidence, either circumstantial or medical, to confirm that she sustained an injury in the performance of duty, as alleged. The Office informed appellant of the information that she must submit to establish her claim, but appellant did not comply. The Office, therefore, properly denied her claim.

¹ 5 U.S.C. § 8101 *et seq.*

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ *John M. Tornello*, 35 ECAB 234 (1983).

The January 27, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
January 9, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Priscilla Anne Schwab
Alternate Member