U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOANN R. PRICE and DEPARTMENT OF THE ARMY,
U.S. ARMY MATERIEL COMMAND, Severna Park, MD

Docket No. 01-1548; Submitted on the Record;
Issued February 4, 2002

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a skin condition in the performance of duty.

The Board finds that appellant did not meet her burden of proof to establish that she sustained a skin condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of 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.[2] These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[3]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.[4] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident

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[1] 5 U.S.C. §§ 8101-8193.

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

[3] *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

[4] *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

caused a personal injury.[5] The term "injury" as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.[6]

In late 2000 appellant, then a 51-year-old logistics management specialist, filed an occupational disease claim alleging that she sustained a rash on her face when she was at work. Appellant alleged that this condition was caused by exposure to air currents from air conditioners and heaters and by the general poor condition of the air at work. She did not stop work due to her claimed condition. By decision dated April 17, 2001, the Office denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained a skin condition in the performance of duty.

The Board finds that appellant did not submit sufficient medical evidence to establish that she sustained a skin condition in the performance of duty. It has been accepted that appellant was exposed to the environmental conditions alleged but she did not submit any medical evidence showing that she sustained a medical condition as a result. Appellant submitted an October 2000 report of an attending nurse and physician's assistant but this would not constitute probative medical evidence.[7] She also submitted prescription notes for skin ointments, but these notes did not contain any opinion that she sustained an employment-related condition. Appellant was provided an opportunity to submit additional medical evidence but did not do so within the allotted time period. For this reason, she has not established a *prima facie* claim for compensation.

[5] *John J. Carlone*, 41 ECAB 354, 356-57 (1989); *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

[6] *Elaine Pendleton*, *supra* note 2; 20 C.F.R. § 10.5(a)(14).

[7] As causal relationship is a medical question that can only be resolved by medical opinion evidence, the reports of a nonphysician cannot be considered by the Board in adjudicating that issue. *Arnold A. Alley*, 44 ECAB 912, 920-21 (1993).

The April 17, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
February 4, 2002

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member