

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEVE T. DISON and U.S. POSTAL SERVICE,
POST OFFICE, Springboro, OH

*Docket No. 01-1853; Submitted on the Record;
Issued April 8, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish an injury in the performance of duty on January 6, 2001.

On February 16, 2001 appellant, a 39-year-old mail carrier, filed a claim alleging that on January 6, 2001 he sustained a back injury while lifting a tray of catalogs. By decision dated April 12, 2001, the Office of Workers' Compensation Programs denied the claim on the grounds that the medical evidence was insufficient to establish an injury on January 6, 2001.

The Board finds that appellant did not meet his burden of proof in this case.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that he or she sustained an injury while in the performance of duty.² In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of 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 that is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.³

The Office apparently has accepted that an employment incident occurred as alleged on January 6, 2001; the denial of the claim was based on the lack of probative medical evidence. With respect to medical evidence of record, there was no report providing an opinion on causal

¹ 5 U.S.C. §§ 8101-8193.

² *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

³ *See John J. Carlone*, 41 ECAB 354, 357 (1989).

relationship between the employment incident and a diagnosed condition. The record contains a treatment note by Dr. Scott Goeller, an osteopath, recording in its brief history that appellant complained of a “back strain last [Saturday] when lifting 70-pound box at work, of which the date is not legible.” The diagnosis included lower back pain and a thoracic injury that is illegible. The report does not provide an opinion on causal relationship between a lifting incident and a diagnosed condition.

Appellant submitted additional treatment notes from Dr. Goeller and the results of diagnostic tests, but this evidence is of little probative value as it does not contain a history of injury or an opinion on causal relationship with the employment incident. The Board has held that medical evidence must be in the form of a reasoned opinion by a qualified physician based on a complete and accurate factual and medical history.⁴ Although appellant indicated on appeal that he had submitted an additional narrative report from Dr. Goeller, the record does not contain this evidence, nor is there any indication that the Office received such evidence prior to April 12, 2001.⁵ In the absence of any probative medical evidence on causal relationship with the employment incident, the Board finds that appellant did not meet his burden of proof in this case.

The decision of the Office of Workers’ Compensation Programs dated April 12, 2001 is affirmed.

Dated, Washington, DC
April 8, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

A. Peter Kanjorski
Alternate Member

⁴ *Robert J. Krstyen*, 44 ECAB 227, 229 (1992).

⁵ Appellant submitted a narrative medical report on appeal, but the Board is limited to evidence that was before the Office at the time of the final decision under review. 20 C.F.R. § 501.2(c).