

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JERRY L. HIGSON and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Columbus, GA

*Docket No. 99-536; Submitted on the Record;
Issued April 26, 2000*

DECISION and ORDER

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

The issue is whether appellant has met his burden of proof to establish that he sustained an injury in the performance of duty on July 8, 1997.

On July 22, 1997 appellant, then a 56-year-old mailhandler, filed a notice of traumatic injury alleging that on July 8, 1997 he was stacking a gurney and heard a pop in his nose and it began to bleed uncontrollably. Appellant stopped work on July 8, 1997.

Appellant submitted medical records from July 8, 1997, which indicate a diagnosis of acute epistaxis and elevated blood pressure. On July 14, 1997 he underwent an internal maxillary artery ligation procedure to resolve the epistaxis.

By letter dated August 6, 1997, the Office of Workers' Compensation Programs requested additional medical evidence from appellant stating that the initial information submitted was insufficient to establish an injury on the above date. Appellant submitted a copy of emergency room treatment notes dated July 8, 1997, St. Francis Hospital doctors progress notes dated July 9 through August 11, 1997, a chest x-ray report dated July 14, 1997, an operative report dated July 14, 1997 and a copy of a limited-duty job offer dated August 4, 1997. This medical evidence did not address the cause of appellant's condition.

In a decision dated September 8, 1997, the Office denied appellant's claim as the medical evidence was not sufficient to establish that the condition was caused by the employment factor, as required by the Federal Employees' Compensation Act.¹ The Office found that there was no medical evidence submitted, which indicated that the diagnosed condition of epistaxis was in any way related to the alleged employment factor of bending over.

¹ 5 U.S.C. §§ 8101-8193.

By letter dated February 20, 1998, appellant requested reconsideration and submitted additional medical evidence. Dr. Robert Marcus, a Board-certified otolaryngologist, completed an attending physician's report on July 28, 1997 and diagnosed nasal epistaxis. Dr. Marcus indicated with a check marked "yes" that appellant's condition was caused or aggravated by an employment activity. The remainder of the medical evidence did not note appellant's history of injury.

By decision dated March 4, 1998, the Office denied appellant's request for reconsideration, after reviewing the merits of the claim, finding that appellant did not establish the causal relationship between the accident, event, or employment factor and appellant's medical condition. The Office stated that appellant's physician failed to explain how the work factor or injury resulted in the condition.

The Board finds that appellant has failed to establish that he sustained an injury in the performance of duty as alleged.

An employee seeking benefits under the Act 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 the 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 an occupational disease.³

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 which is alleged to have occurred.⁴ In some traumatic injury cases, this component can be established by an employee's uncontroverted statement on the Form CA-1.⁵ An alleged work incident does not have to be confirmed by eyewitnesses in order to establish that an employee sustained an injury in the performance of duty, but the employee's statement must be consistent with the surrounding facts and circumstances and his subsequent course of action.⁶ A consistent history of the injury as reported on medical reports, to the claimant's

² *Joe D. Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Rex A. Lenk*, 35 ECAB 253, 255 (1983).

supervisor and on the notice of injury can also be evidence of the occurrence of the incident.⁷ In this case, it is undisputed that appellant experienced a nosebleed on July 8, 1997, during his tour of duty as a mailhandler.

The second component is whether the employment incident caused a personal injury and generally can be established only 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.⁸

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁹

In this case, it is not disputed that appellant was stacking gurneys on July 8, 1997. However, the medical evidence is insufficient to establish that this activity caused or aggravated a medical condition. The only report supporting a causal relationship between appellant's employment and his diagnosed condition is Dr. Marcus' report dated July 28, 1997, in which he diagnosed nasal epitaxis and indicated with a check marked "yes" that appellant's condition was caused or aggravated by an employment activity. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.¹⁰ Therefore, this report is insufficient to meet appellant's burden of proof.

The remainder of the medical evidence fails to note the employment incident and fails to provide an opinion on the causal relationship between this incident and appellant's diagnosed condition. For this reason, this evidence is not sufficient to meet appellant's burden of proof.

⁷ *Id.* at 255-56.

⁸ See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁹ *James Mack*, 43 ECAB 321 (1991).

¹⁰ *Lucrecia M. Nielsen*, 41 ECAB 583, 594 (1991).

The decision of the Office of Workers' Compensation Programs dated March 4, 1998 is hereby affirmed.

Dated, Washington, D.C.
April 26, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member