U. S. DEPARTMENT OF LABOR

# Employees' Compensation Appeals Board

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In the Matter of CHRISTINE M. BRANNAN and DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION, AIR ROUTE TRAFFIC CONTROL CENTER, Miami, FL

*Docket No. 99-844; Submitted on the Record;*
*Issued August 14, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS, MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty on June 4, 1998, as alleged.

On June 4, 1998 appellant, then a 35-year-old secretary, filed a notice of traumatic injury and claim for compensation, Form CA-1, alleging that she fell on her left knee that date as she was walking up stairs. A coworker indicated that he witnessed appellant slip and fall on the stairs. Appellant stopped work that day and returned five days later.

By letter dated July 8, 1998, the Office of Workers' Compensation Programs informed appellant that she must submit medical records explaining how the reported work incident caused or aggravated the claimed knee injury. In support, appellant provided x-ray reports and medical treatment records from Dr. Robert Watine, a Board-certified internist, who first treated appellant on June 5, 1998 noting that she fell on steps at work and hurt her leg. Dr. Watine referred appellant for x-rays and a magnetic resonance imaging (MRI) test. X-rays of the knees revealed no acute abnormality, x-rays of the ankles revealed no evidence of fracture, dislocation or soft-tissue abnormality. X-rays of the cervical and thoracic spine were normal. The x-ray of lumbosacral spine revealed decreased lordosis possibly due to muscle spasm but no bony abnormalities were noted. In a June 11, 1998 follow-up report, Dr. Watine indicated that appellant felt better but still had cervical and lumbar pain and left knee pain. He diagnosed cervical and lumbar radiculopathy and recommended a Doppler venogram. On July 16, 1998 Dr. Watine opined that, "while there has been a complete resolution clinically, appellant should still have a[n] MRI scan."

In a decision dated September 8, 1998, the Office denied appellant's claim for failure to establish fact of injury. The Office found that appellant failed to present sufficient medical evidence establishing that she sustained an injury.

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

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 limitations 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]

In order to determine whether an employee actually sustained an injury in the performance of a 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. In this case, the Office does not dispute that the incident involving appellant falling on the stairs occurred on June 4, 1998, as alleged.

The second component is whether the employment incident caused a personal injury and it 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.[4] In assessing medical evidence, the weight of such evidence is determined by its reliability, its probative value and its convincing quality, and the factors which enter in such an evaluation include the opportunity for, and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of the analysis manifested, and the medical rationale expressed in support of the physician's opinion.[5]

In the instant case, the record contains x-rays of appellant's ankles, knees and back, all of which showed no medical abnormalities. The record also contains medical reports from Dr. Watine, who, although he referred to appellant's June 4, 1998 fall at work in his reports, he failed to provide a rationalized explanation for his diagnosis of cervical and lumbar radiculopathy. Moreover, Dr. Watine's diagnoses of leg pain, cervical and lumbar pain and trauma are unsupported by any objective medical evidence. Additionally, the physician failed to

[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] *Gary R. Sieber*, 46 ECAB 215, 224 (1994); *Melvina Jackson* 38 ECAB 443, 449-50 (1987); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

[5] *Thomas A. Faber*, 50 ECAB ____ (Docket No. 97-2212, issued September 28, 1999).

provide a rationalized medical opinion, based upon reasonable medical certainty, that there was a causal connection between appellant's condition and any specific workplace factors.[6] As these reports provide no firm diagnoses, no rationale and no explanation of mechanism of injury, they are insufficient to meet appellant's burden of proof.[7] As there is insufficient rationalized medical evidence of record, appellant failed to establish fact of injury.

Lastly, notwithstanding the Board's affirmance of the Office's September 8, 1998 decision denying benefits, the Board finds that appellant is still entitled to reimbursement for or payment of expenses incurred for medical treatment for the period June 4, 1998, the date the employing establishment official signed the Form CA-16, authorization for examination and/or treatment, to September 8, 1998, the date on which the Office denied the claim and terminated authorization of medical treatment at the Office's expense. By Form CA-16, authorization for examination and/or treatment, signed by an employing establishment official on June 4, 1998, the employing establishment authorized Dr. Watine to provide medical care for a period of up to 60 days from that date. The employing establishment's authorization for appellant to obtain medical examination and/or treatment created a contractual obligation to pay for the cost of necessary medical treatment regardless of the action taken on the claim.[8]

The September 8, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
August 14, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

[6] *Thomas L. Hogan,* 47 ECAB 323, 328-29 (1996).

[7] *Mary Lou Barragy,* 46 ECAB 781 (1995).

[8] *Robert F. Hamilton,* 41 ECAB 431 (1990); *Frederick J. Williams,* 35 ECAB 805 (1984); 20 C.F.R. § 10.403.