U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALELARDO F. SANTIBANEZ and DEPARTMENT OF THE TREASURY, CUSTOMS SERVICE, Houston, TX

Docket No. 00-119; Submitted on the Record;
Issued October 24, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
VALERIE D. EVANS-HARRELL

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty on December 30, 1998, as alleged.

The Board has duly reviewed the case record in the present appeal and finds that appellant has failed to meet his burden of proof to establish that he sustained an injury in the performance of duty on December 30, 1998, as alleged.

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.[1] Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that he sustained an injury in the performance of duty and that his disability was caused or aggravated by his employment.[2] As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.[3] The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.[4] Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated his condition is sufficient to establish causal relationship.[5]

---

[1] *William Nimitz, Jr.*, 30 ECAB 567 (1979).

[2] *Daniel R. Hickman*, 34 ECAB 1220 (1983).

[3] *Mary J. Briggs*, 37 ECAB 578 (1986); *Joseph T. Gulla*, 36 ECAB 516 (1985).

[4] *Edward E. Olson*, 35 ECAB 1099 (1984).

[5] *Id.*

On December 30, 1998 appellant, then a 45-year-old canine enforcement officer, filed a traumatic injury claim alleging that he injured his left knee, elbow and shoulder and his back on that date when a dog jumped onto him and he fell to one knee and onto his back and struck cargo boxes.

By decision dated March 3, 1999, the Office of Workers' Compensation Programs denied his claim. The Office explained that, although it accepted that the incident occurred as alleged, appellant had failed to submit medical evidence establishing that an injury resulted. By letter dated June 1, 1999, appellant requested reconsideration of the denial of his claim. By decision dated July 22, 1999, the Office denied modification of its March 3, 1999 decision.[6]

The only medical evidence submitted by appellant in support of his claim was a report dated January 26, 1999 which was received by the Office on April 21, 1999 and was labeled "copy of medical records from Dr. John H. Judd, Jr." but was not signed by the physician. In the report, Dr. Judd related that he had seen appellant previously for a partial tear of the rotator cuff of his left shoulder. He related that appellant was at work[7] and had an accident in which his left knee was hyperflexed and he fell backward onto his left elbow and struck both shoulders. He provided findings on examination and indicated that appellant might have an impingement syndrome of the left shoulder. However, this report was not signed by a physician,[8] did not include a date of injury, did not contain a definite diagnosis and did not contain a medical opinion explaining the cause of the condition or whether it was related to the incident at work. The need for a medical opinion explaining how, if at all, the impingement syndrome of the left shoulder was related to the work incident is particularly important as appellant had a preexisting injury to the left shoulder. Due to these deficiencies, this report is not sufficient to establish that appellant sustained an injury in the performance of duty on December 30, 1998, as alleged.

[6] The Board notes that the Office received additional medical evidence subsequent to the issuance of its July 22, 1999 decision. The Board has no jurisdiction to consider this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c).

[7] No date of injury was provided.

[8] The Board has held that medical evidence upon which the Office relies upon to resolve an issue must, *inter alia*, be signed by a qualified physician. *See James A. Long*, 40 ECAB 538 (1989).

The July 22 and March 3, 1999 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
October 24, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Valerie D. Evans-Harrell
Alternate Member