U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DON J. HEIL and DEPARTMENT OF DEFENSE,
DEFENSE FINANCE & ACCOUNTING SERVICE, Columbus, OH

Docket No. 01-593; Submitted on the Record;
Issued November 1, 2001

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof to establish that he sustained an eye injury causally related to employment factors.

On July 23, 1996 appellant, then a 43-year-old file clerk filed a traumatic injury claim (Form CA-1) alleging that sometime between October 1994 and April 1995, a defective drill bit in the drill press caused his right eye to be penetrated by a piece of metal. The employing establishment controverted the claim as appellant did not report the injury and there were no witnesses.

In a decision dated November 4, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the basis that he failed to establish a causal relationship between his eye injury and his employment.

On July 22, 1997 the hearing representative affirmed the Office's determination that appellant had failed to establish a causal relationship between his injury and his employment.

Appellant's counsel requested reconsideration by letter dated October 20, 1997 and submitted an August 31, 1997 report by Dr. Joseph W. Spraul, an attending Board-certified ophthalmologist in support of his request.[1]

In his August 31, 1997 report, Dr. Spraul attributed the metal in appellant's eye to his employment. The physician also indicated that a December 12, 1995 examination indicated that

[1] On October 8, 1997 appellant filed an appeal with the Board of the Office's July 22, 1997 decision. This appeal was docketed as 98-85. On December 5, 1997 appellant requested the Board to dismiss the case which the Board granted on December 25, 1997.

the metal piece had been present in appellant's eye for a while. He also noted that due to the eye having very little sensation, it was reasonable for appellant to ignore it in the short term. In support of this conclusion that the injury was employment related, Dr. Spraul noted:

> "[Appellant] stated that he did not have any hobbies or do any work at home that involved high velocity metal on metal contact -- the kind of contact that would result in this type of injury. He did state that in his job he was required to run a high speed drill press through large reams of paper. He also stated that on occasion these reams would have staples left in the sheets, which would be caught by the drill and would break into pieces. From my personal experience of examining [appellant's] eye, as well as examining the metallic foreign body, I would state that the injury he sustained is consistent with a piece of metallic staple being shot into the eye by a high speed drill press and that most likely a staple was the source of the metallic fragment."

By merit decision dated April 10, 1998, the Office denied appellant's request for modification.

On October 7, 1999 the Board issued an order remanding the case for reconstruction of the record.[2]

Appellant submitted an August 23, 1997 report by Dr. Spraul. In his report, Dr. Spraul indicated that a physical examination on December 12, 1995 revealed "that the foreign body had been present in the eye for a period of time, presumably months." He also noted that due to the eye having very little sensation, it was reasonable for appellant to ignore it in the short term and that only the iris color and visual changes caused appellant to seek medical treatment. Lastly, Dr. Spraul opined that appellant's injury was consistent with his working with a high speed drill and the metallic piece he removed from appellant's eye was most likely as a staple.

By merit decision dated December 18, 2000, the Office denied appellant's request for modification.

The Board finds that this case is not in posture for decision.

An employee seeking benefits under the Federal Employees' Compensation 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 an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.[3]

[2] Docket No. 98-1890.

[3] *Gary J. Watling*, 52 ECAB ___ (Docket No. 00-634, issued March 1, 2001).

The Office, in determining whether an employee actually sustained an injury in the performance of duty, first analyzes whether fact of injury has been established. Generally, fact of injury consists of two components, which must be considered in conjunction with one another. In this case, the Office accepted that the first component, the employment incident, occurred as alleged.[4] The second component is whether the employment incident caused a personal injury and this generally can only be established 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.[5]

When an employee claims that he or she sustained an injury in the performance of duty he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The employee must also establish that such event, incident or exposure caused an injury. Once an employee establishes an injury in the performance of duty, he or she has the burden of proof to establish that any subsequent medical condition or disability for work, for which he or she claims compensation, is causally related to the accepted injury.[6]

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 the 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.[7]

In a reports dated August 23 and 31, 1997, Dr. Spraul attributed appellant's eye injury to his employment duties. He noted that appellant would not have felt the metal piece in his eye immediately due to the eye having very little sensation. Dr. Spraul concluded that appellant's injury was work related based upon his examination of appellant's eye and the metallic foreign body he removed. He also opined that appellant's injury was "consistent with a piece of metallic staple being shot into the eye by a high speed drill press" and thus, the staple was the more likely source of the metal piece removed from appellant's eye. While the Office has accepted that an incident occurred during the period indicated by appellant, Dr. Spraul's August 23 and 31, 1997 reports provide support that appellant's eye injury is causally related to his employment duties. Although the medical evidence is not sufficient to meet appellant's burden of proof in establishing his claim, it raises an uncontroverted inference of causal relationship sufficient to

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

[5] 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

[6] *Leon Thomas*, 52 ECAB ___ (Docket No. 00-671, issued January 4, 2001).

[7] *James Mack*, 43 ECAB 321 (1991).

require further development of the evidence.[8] The case will, therefore, be remanded to the Office.

On remand, the Office should prepare a statement of accepted facts and refer appellant, along with the statement of accepted facts and a copy of the medical record, to an appropriate specialist for an examination of appellant and a rationalized medical opinion as to whether appellant's eye injury was caused or aggravated by factors of his federal employment. After such further development as it may deem necessary, the Office shall issue a *de novo* decision.

The December 18, 2000 decision of the Office of Workers' Compensation Programs is hereby set aside and the case remanded for further proceeding consistent with the above opinion.

Dated, Washington, DC
November 1, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

[8] *John J. Carlone*, 41 ECAB 354 (1989).