U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KENNETH COOK and DEPARTMENT OF THE ARMY,
ARMY AMMUNITION PLANT, McAlester, OK

Docket No. 01-631; Submitted on the Record;
Issued November 2, 2001

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a back injury while in the performance of duty.

On August 16, 2000 appellant, then a 52-year-old mechanic, filed a claim alleging that, on August 14, 2000, he was loading trash into a dumpster and twisted his back. Appellant stopped work on April 14, 2000 and returned on April 16, 2000.

In support of his claim, appellant submitted a clinic permit note prepared by Dr. Mel Bradley, an employing establishment physician, dated August 16, 2000; a referral for physical therapy; an outpatient prescription form dated August 16, 2000; and a note from Dr. J. Patrick Evans, an internist, dated October 3, 2000. The clinic permit note prepared by Dr. Bradley indicated that appellant was to return to light duty, with restrictions on lifting. The referral for physical therapy indicated that appellant was being treated for back strain and sprain. The outpatient prescription form noted that appellant was being treated for chronic back pain with an onset date of four years prior. The note indicated that appellant reinjured his back on August 14, 2000. The note from Dr. Evans indicated that appellant had a "reinjury and was on light-duty work for a while." He recommended that appellant continue with a 20-pound push, pull and lift limit.

In a letter dated October 19, 2000, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish his claim and requested that he submit such evidence. The Office particularly requested that appellant submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific employment factors.

Appellant submitted an Office questionnaire and an employing establishment clinic note dated September 5, 2000. The Office questionnaire noted a history of appellant's injury and indicated that appellant sustained a previous back injury and was diagnosed with a herniated disc. The employing establishment medical clinic noted that appellant was being treated for the flu and was on light duty.

In a decision dated December 5, 2000, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his condition was caused by the alleged injury on August 14, 2000 as required by the Federal Employees' Compensation Act.[1]

The Board finds that appellant has failed to establish that he sustained an injury in the performance of duty, causally related to the factors of his federal employment.

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 filed within the applicable time limitation 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 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]

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.[5]

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.[6]

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[1] 5 U.S.C. §§ 8101-8193.

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

[3] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

[4] *Elaine Pendleton*, *supra* note 2.

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

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

In this case, the only medical evidence submitted in support of appellant's case was an outpatient prescription form dated August 16, 2000 and a note from Dr. Evans. The prescription form noted that appellant was being treated for chronic back pain but contained no diagnosis. The note indicated that appellant reinjured his back on August 14, 2000. The note refers to a date of injury, but does not mention a work-related injury. The note from Dr. Evans indicated that appellant had a "reinjury and was on light-duty work for a while," but does not contain a specific and rationalized opinion on the causal relationship between appellant's employment and his injury.[7] Further, the note does not provide a complete and accurate history of the August 14, 2000 injury, findings on physical examination, a diagnosis or a well-reasoned discussion explaining how appellant's condition is causally related to appellant's employment.[8]

The person seeking compensation benefits has the burden of proof to establish the essential elements of the claim. Appellant has failed to do this. His own unsupported assertion of an employment relationship is not proof of the fact. In a case such as this, proof must include supporting rationalized opinion of qualified medical experts, based on complete and accurate factual and medical backgrounds, establishing that the implicated incidents caused or materially adversely affected the ailments producing the work disablement.[9]

The Office specifically advised appellant of the type of medical evidence necessary to establish his claim. The Office also requested specific medical information regarding appellant's condition. The clinic note dated September 5, 2000 was unclear about both a diagnosis and a medical condition caused by employment factors. Further, the note does not contain a history of injury or a rationalized opinion as to the causal relationship between appellant's employment and his injury. The Board finds that appellant has not met the fundamental prerequisite of the Act with respect to his claim.

[7] *See Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

[8] *See Cowan Mullins*, 8 ECAB 155, 158 (1955) (where the Board held that a medical opinion based on an incomplete history was insufficient to establish causal relationship).

[9] *See Margaret A. Donnelly*, 15 ECAB 40 (1963).

The decision of the Office of Workers' Compensation Programs dated December 5, 2000 is hereby affirmed.

Dated, Washington, DC
November 2, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member