U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALLAN J. HARDEN and DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE, Greenville, SC

Docket No. 01-1774; Submitted on the Record;
Issued February 20, 2002

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that he sustained injuries on October 24, 2000, as alleged.

On October 26, 2000 appellant, then a 41-year-old criminal investigator, filed a notice of traumatic injury and claim, Form CA-1, alleging that, on October 24, 2000, he sustained injuries to his neck, shoulder, arm and low back when he was involved in a motor vehicle accident in the performance of duty. Appellant did not stop work. In support of his claim, appellant submitted police accident reports and witness statements which indicated that, following a meeting, appellant was delivering a group of visiting special agents to their hotel when the car he was driving was struck by another car.

By letter dated November 16, 2000, the Office of Workers' Compensation Programs advised appellant that the information submitted was insufficient to establish that he sustained an injury on October 24, 2000 and requested that he submit all medical records generated as a result of the accident, including a comprehensive medical report from his physician. The Office allowed appellant 30 days to submit the requested medical evidence.

By letter dated December 13, 2000, appellant responded to the Office request, stating that he had been examined on October 26, 2000, and was billed $55.00, which he paid. Appellant further stated that on November 15, 2000 he was reexamined and was referred to the Greenville Hospital System for x-rays, which yielded normal results. Appellant stated that his diagnosis was "muscle inflammation," that this condition was a direct result of the motor vehicle accident, and that he had been prescribed medication. He stated that, with treatment, his muscle discomfort decreased and then disappeared. Appellant enclosed copies of the police accident reports and a letter from his insurance provider.

By decision dated December 29, 2000, the Office rejected appellant's claim on the grounds that fact of injury was not established. The Office found that the initial evidence submitted was sufficient to establish that the claimed event, incident or exposure occurred at the

time, place and in the manner alleged, but denied the claim on the grounds that the record contained no medical evidence diagnosing a medical condition caused by the automobile accident.

By letter dated January 3, 2001, appellant stated that he had duly responded to the Office's request for additional information, and had submitted copies of all documents pertaining to the accident, including his two doctor's examinations and his x-ray results.[1]

The Board has duly reviewed the entire case record on appeal and finds that appellant has not established that he sustained an injury as alleged.

A person who claims benefits under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of his claim, including that he sustained an injury while in the performance of duty and that he had disability as a result.[3] In accordance with the Federal (FECA) Procedure Manual, in order to determine whether an employee actually sustained an injury in the performance of his duty, the Office begins with the analysis of whether "fact of injury" has been established. Generally, "fact of injury" consists of two components which must be considered in conjunction with the other.

The first component to be established is that the employee actually experienced the employment incident or exposure which is alleged to have occurred.[4] In order to meet his burden of proof to establish the fact that he sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that he actually experienced the employment injury or exposure at the time, place and in the manner alleged.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[5] The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.[6] The belief of the claimant that a condition was caused or aggravated by the employment is not sufficient to establish a causal relationship.[7]

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[1] By separate letter to the Board, also dated January 3, 2001, appellant requested reconsideration of the Office's decision. The Board returned appellant's letter, and asked that he clarify whether he was requesting reconsideration before the Office or an appeal before the Board. In response, appellant submitted an appeal to the Board.

[2] 5 U.S.C. §§ 8101-8193.

[3] *Charles E. Evans*, 48 ECAB 692 (1997); *see* 20 C.F.R. § 10.115.

[4] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995).

[5] *John J. Carlone*, 41 ECAB 354 (1989); *see* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(q), 10.5(ee) ("occupational disease" and "traumatic injury" defined).

[6] *Lourdes Harris*, 45 ECAB 545 (1994); *see Walter D. Morehead*, 31 ECAB 188 (1979).

[7] *Charles E. Evans*, *supra* note 3.

In this case, the Office accepted that appellant submitted sufficient factual information to establish that he was involved in an employment-related motor vehicle accident on October 24, 2000 at the time, place and in the manner alleged. Therefore, the only issue is whether appellant established that he sustained an injury as a result of the employment incident. Although, in a letter dated November 16, 2000, the Office requested that appellant submit medical evidence to establish that he sustained a personal injury as a result of the October 24, 2000 incident, appellant provided only his own summary of his diagnosis, and did not submit any medical evidence. While appellant subsequently asserted that he had submitted copies or originals of all documents pertaining to his accident, including his medical examinations and x-ray, there is no medical evidence in the record, only numerous copies of the accident report and other administrative documents. Therefore, the second prong of the fact-of-injury test has not been established and appellant has not met his burden of proof.

The decision of the Office of Workers' Compensation Programs dated December 29, 2000 is affirmed.

Dated, Washington, DC
February 20, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member