U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROLAND LUECHT and DEPARTMENT OF THE NAVY, NAVAL HOSPITAL, Pensacola, FL

Docket No. 01-1014; Submitted on the Record;
Issued January 18, 2002

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof in establishing that he sustained an injury in the performance of duty.

On September 20, 1999 appellant, then a 51-year-old contact representative, filed a notice of traumatic injury claiming that on September 9, 1999 he sustained a head injury when he "either fell out of his chair or just fell down on the floor" and was unconscious for about an hour and a half. In a personal statement dated October 1, 1999, he stated that he "tripped on his desk" and fell in his office area, landed on his head and was knocked unconscious. He also admitted that there were no witnesses to the fall. Appellant was diagnosed with "syncope."

Appellant submitted a witness statement from coworker Danny V. Prevou, dated September 9, 1999, in which he stated that on September 9, 1999 he entered the work center and found appellant lying on the floor. Appellant also submitted a witness statement from Donna R. Purvis who stated that on September 9, 1999 she saw appellant "lying on the floor in an unconscious state."

By decision dated November 22, 1999, the Office of Workers' Compensation Programs denied appellant's claim finding that appellant did not sustain an injury, as alleged.

By letter dated December 9, 1999, appellant requested an oral hearing, which was held on August 14, 2000.

Appellant submitted an emergency room report from Dr. David L. Sheppard, a Board-certified internist, dated September 10, 1999, in which he indicated that appellant was found unconscious at work. Dr. Sheppard stated that appellant had been suffering from "holocephalic headaches with predominately muscle contraction features" for some months. He noted that a toxicology screen was negative, a computed tomography (CT) scan of the head was normal and blood chemistries, electrocardiogram and CBC were normal. Neurological examinations were also normal. Dr. Sheppard diagnosed appellant with an episode of syncope and collapse.

Appellant also underwent a CT scan on September 9, 1999 which was found normal for his age.

In a report dated September 21, 1999, a Dr. Syverson[1] indicated that appellant was being retreated following his hospitalization with syncope and collapse. He diagnosed appellant with "episode of syncope and collapse, likely vasovagal" and also indicated that he suffers from headaches and muscle contraction and depression.

Appellant was readmitted to the hospital on November 3, 1999. In a report dated November 4, 1999, Dr. Lawrence Mobly indicated that appellant suffered a "blackout spell" within the last two weeks but that the reason for the syncopal episode was unknown.

Appellant also submitted a report from Dr. John W. Hutcheson, Jr., dated January 24, 2000, who stated that appellant had a history of depression, with a family history of alcoholism and substance abuse. He also mentioned that appellant suffered from memory deficits. He did not discuss appellant's syncopal episode of September 9, 1999.

Appellant also underwent an electroencephalogram (EEG) and quantitative EEG analysis on March 13, 2000 which were normal.

In a March 14, 2000 report, Dr. Russell C. Packard, a Board-certified neurologist and psychiatrist, indicated that he treated appellant for neurological evaluation of postconcussion symptoms and loss of memory after a head injury. Dr. Packard mentioned an increase in appellant's headache frequency and stated that appellant had "an aggravation of his service[-]connected concussion" and also has "a depression that most likely is affecting his cognition to some extent."

By decision dated January 4, 2001, the hearing representative affirmed the Office's November 22, 1999 decision.

The Board finds that appellant sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act[2] 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 are causally related to the employment injury.[3] These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

[1] His full name is unknown.

[2] 5 U.S.C. §§ 8101-8193.

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

[4] *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place and in the manner alleged.[5] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[6] An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or a specific condition for which compensation is claimed are causally related to the injury.[7]

The Board first finds that appellant actually experienced the employment incident at the time, place and in the manner alleged. Appellant submitted several statements from witnesses who stated that they found appellant lying on the floor unconscious at work on the day in question. Medical documents from the day of the incident, September 9, 1999, also indicate that appellant suffered a syncopal episode at work.

It is a well-settled principle of workers' compensation law and the Board has so held, that an injury resulting from an idiopathic fall where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface and there is no intervention or contribution by any hazard or special condition of employment is not within coverage of the Act. Such an injury does not arise out of a risk connected with the employment and is, therefore, not compensable. However, as the Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained, or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition. This follows the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to such general rule.[8] If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted the fall and caused the fall.[9]

In this case, the medical evidence does not establish that appellant's syncopal episode on September 9, 1999 was due to a personal, nonoccupational pathology. Most of the medical evidence indicates that he suffered a syncopal episode at work or loss of consciousness on September 9, 1999. A few reports indicate that appellant has a history of headaches, but no reports conclusively state that appellant's September 9, 1999 incident was caused by a headache. Dr. Syverson stated that appellant's syncopal episode was "likely" vasovagal, which is most often evoked by emotional stress associated with fear or pain. Dr. Syverson's opinion is

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

[6] *Id*. For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

[7] As used in the Act, the term "disability" means incapacity because of an injury in employment to earn wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity. *Frazier V. Nichol*, 37 ECAB 528 (1986).

[8] *John R. Black*, 49 ECAB 624 (1998).

[9] *Id*.

speculative on the cause of appellant's syncopal episode and is, therefore, of little probative value.[10] Dr. Mobly indicated that the reason for appellant's syncopal episode was unknown. Dr. Packard stated that appellant's depression was "most likely" affecting his cognition to some extent but did not opine as to the cause of appellant's syncopal episode on September 9, 1999. In addition, the extensive diagnostic testing provided no idiopathic cause of appellant's syncopal episode. The Board, thus, finds that the syncopal episode remains an unexplained fall while appellant was engaged in activities related to his employment duties and is, therefore, compensable.

The January 4, 2001 decision of the Office of Workers' Compensation Programs is hereby set aside and the case is remanded to the Office for a determination of the nature and extent of any disability causally related to the September 9, 1999 fall.

Dated, Washington, DC
January 18, 2002

David S. Gerson
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

[10] *Geraldine H. Johnson*, 44 ECAB 745 (1993).