

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LUCIA MARTINEZ and DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATIONS, El Paso, TX

*Docket No. 02-676; Submitted on the Record;
Issued September 13, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof in establishing that she sustained an injury in the performance of duty as alleged.

On May 7, 2001 appellant, then a 36-year-old investigative analyst filed a traumatic injury claim alleging that on May 2, 2001 she cut her left middle finger with a cutting utensil while slicing vegetables at an office recreational function. She stopped work on May 2 and returned on May 3, 2001.

In support of her claim, appellant submitted a Form CA-16 authorization for examination or treatment dated May 2, 2001 from Dr. Scott Silvia, a Board-certified family practitioner, which indicated that appellant was treated that day for a left finger laceration sustained while using an onion slicer. He diagnosed left middle finger laceration and checked yes on the form report that appellant's condition was caused or aggravated by the employment activity described by appellant. Dr. Silvia noted his method of treating the laceration and that appellant was disabled as a result of the injury from May 21 to 23, 2001. He released appellant to return to work on May 23, 2001.

On May 16, 2001 the Office of Workers' Compensation Programs advised appellant and the employing establishment that additional factual and medical documentation was needed to support the traumatic injury claim. The Office allotted 30 days with which to submit the requested information.

Appellant submitted no further information. In a letter dated June 4, 2001, the employing establishment noted that appellant's injury to her left finger was sustained during normal working hours on its premises during a recreational function sponsored by the office.

By decision dated June 22, 2001, the Office denied appellant's claim on the grounds that she failed to meet the requirements for establishing that she sustained an injury as alleged.

The Board finds that appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty.

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.¹ 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.² 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.³

In this case, the Office accepted that the employment incident occurred as alleged. However, the Office found that appellant had not submitted sufficient medical evidence to establish that she sustained an injury as a result of this incident.

The Board finds that appellant has submitted sufficient medical evidence to establish that she sustained a traumatic injury in the performance of duty. Appellant submitted a CA-16 form from Dr. Scott Silvia, a Board-certified family practitioner, dated May 2, 2001. Dr. Silvia indicated on the form report that appellant provided a history of a left middle finger laceration sustained by an onion slicer. He noted a definite diagnosis, treatment administered, dates of treatment as well as dates of total disability and date released for regular work. Dr. Silvia's portion of the CA-16 report duly supports appellant's claim for an injury to her left finger causally related to employment factors, thus, it is sufficient to meet her burden of proof.

¹ *Elaine Pendleton*, 40 ECAB 1143 (1989).

² See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

³ *James Mack*, 43 ECAB 321 (1991).

The decision of the Office of Workers' Compensation Programs dated June 22, 2001 is reversed and the case is remanded for a determination as to entitlement to continuation of pay, wage-loss and medical benefits.

Dated, Washington, DC
September 13, 2002

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member