

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOEY W. JESSUP and U.S. POSTAL SERVICE,
POST OFFICE, Indianapolis, IN

*Docket No. 02-2126; Submitted on the Record;
Issued May 12, 2003*

DECISION and ORDER

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

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty on April 7, 2002.

On April 7, 2002 appellant, then a 30-year-old part-time flexible clerk, passed out while working on a postal machine and fell. He stated that he became unconscious due to dehydration. Appellant indicated that he did not sustain any specific injury. He returned to work on April 8, 2002. The record contains a statement in which a coworker indicated that he found appellant lying on the floor in a semiconscious state at work on April 7, 2002.

Appellant submitted a copy of the emergency ambulance report. A nurse indicated that appellant was sorting mail when he suddenly felt dizzy. The nurse related that witnesses indicated that appellant lost consciousness for a minute. Appellant reported that he had felt a severe headache with sinus pressure for the prior four days and had taken medication which gave no relief. The nurse noted that appellant had a very small abrasion of the left elbow. Appellant gave a history of several near syncopal episodes with visual disturbance in the past few days.

In a July 12, 2002 decision, the Office of Workers' Compensation Programs found that, while appellant had experienced the claimed incident, the evidence did not establish that a condition had been diagnosed in connection with the event. The Office found that he had not sustained an injury within the meaning of the Federal Employees' Compensation Act.

The Board finds that appellant has established that an incident occurred in the performance of duty on April 7, 2002, but has not established that he sustained a specific condition or disability due to that incident.

An employee seeking benefits under the Act¹ 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

¹ 5 U.S.C. §§ 8101-8193.

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.² To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the “fact of injury” has been established.

There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.³ 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. 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 experienced the employment incident at the time, place and in the manner alleged. The record contains a statement in which a coworker indicated that he found appellant lying on the floor in a semiconscious state at work on April 7, 2002. Emergency treatment notes from the day of the incident 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 the coverage of the Act.⁴ Such an injury does not arise out of a risk connected with the employment and, therefore, it is not compensable.⁵ The question of causal relationship in such cases is a medical one and must be resolved by medical evidence.⁶ However, as the Board has made equally clear, the fact that the case 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 from 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 the general rule.⁷ If the record does not establish that the particular fall was due to an idiopathic

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

³ *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Amrit P. Kaur*, 40 ECAB 848, 853 (1989); *Robert J. Choate*, 39 ECAB 103, 106 (1987).

⁶ *See Roland Luecht*, Docket No. 01-1014 (issued January 18, 2002). The term “injury” as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions. *John D. Williams*, 37 ECAB 238, 240 (1985); *Rudolph Goltz*, 33 ECAB 129, 133 (1981).

⁷ *Emelda C. Arpin*, 40 ECAB 787, 789 (1989); *Judy Bryant*, 40 ECAB 207, 213 (1988).

condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely established that a physical condition preexisted the fall and caused the fall.⁸

In the present case, the evidence does not establish that appellant's fall on April 7, 2002 was due to a personal, nonoccupational pathology. No physician has attributed appellant's April 7, 2002 fall to a personal, nonoccupational pathology. Appellant indicated that he had a severe headache with sinus pressure for the four days prior to the fall, but this fact alone would not establish the existence of a personal, nonoccupational pathology. The April 7, 2002 fall thus remains an unexplained fall which occurred while appellant was engaged in activities incidental to his employment and is compensable.⁹

Appellant has not, however, established that he sustained a specific condition or disability due to this incident. He has not submitted any medical evidence from a physician to show that he sustained a specific condition or disability due to his collapse at work on April 7, 2002. The record contains an April 7, 2002 report in which a nurse explained the treatment appellant received on that date. However, a nurse is not a "physician" as defined under the Act and cannot render a medical opinion on the causal relationship between a given physical condition and implicated employment factors.¹⁰

⁸ See *Martha G. List (Joseph G. List)*, 26 ECAB 200, 204-05 (1974).

⁹ See *Dora J. Ward*, 43 ECAB 767, 769-70 (1992); see also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.9c (August 1992). The Office's procedure manual indicates that if a fall is not shown to be caused by an idiopathic condition, it is simply unexplained and is, therefore, compensable if it occurred in the performance of duty. An idiopathic fall is one where a personal, nonoccupational pathology causes an employee to collapse and an unexplained fall is one where the cause is unknown even to the employee.

¹⁰ See *Bertha L. Arnold*, 38 ECAB 282, 285 (1986); 5 U.S.C. § 8101(2).

The decision of the Office of Workers' Compensation Programs dated July 12, 2002 is affirmed as modified to reflect that appellant has established that an incident occurred in the performance of duty on April 7, 2002, but he has not established that he sustained a specific condition or disability due to that incident.

Dated, Washington, DC
May 12, 2003

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member