U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROGER B. WEBB and DEPARTMENT OF TRANSPORTATION, TRANSPORTATION SECURITY ADMINISTRATION, Reston, VA

Docket No. 03-1698; Submitted on the Record;
Issued October 10, 2003

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained an injury in the performance of duty on April 10, 2003.

On April 10, 2003 appellant, then a 28-year-old transportation security screener, filed a notice of traumatic injury (Form CA-1) alleging that on that date he "bent to lift bag on table when coming up felt sharp and burning pain in the knee and upper thigh."

On May 7, 2003 the Office of Workers' Compensation Programs received an April 28, 2003 office note by Dr. Jesse R. Ada, a Board-certified orthopedic surgeon, who discussed the follow-up visit for appellant's left knee.

On May 9, 2003 the Office received an April 10, 2003 report by a physician's assistant, Alina Volodka, diagnosing left knee pain. On May 14, 2003 the Office received an April 10, 2003 report by Ms. Volodka providing a diagnosis of left knee pain and indicating that it was causally related to appellant's history of left knee and thigh problems.

By letter dated May 16, 2003, the Office requested that appellant provide additional information. Specifically, appellant was requested to have his treating physician submit a detailed narrative medical report which included a history of injury, a firm diagnosis of any conditions resulting from this injury, findings, symptoms and/or test results which supported all conditions diagnosed, including reports of both pre- and post-April 10, 2003 magnetic resonance imaging (MRI) scans, treatment provided to the left knee prior to the April 10, 2003 reported incident, a prognosis, period and extent of disability and a medical opinion on whether the condition diagnosed is believed to have been caused or aggravated by the claimed incident. The Office allotted appellant 30 days within which to submit the requested information. No response was received within the allotted time.

On May 16, 2003 the Office received an April 17, 2003 office note by Dr. Ada stating that "[appellant] presents today for evaluation of his knee. He has been seen by Dr. [Naresn K.] Nayak[, an orthopedist]." Dr. Ada went on to say that "[appellant's] MRI [scan] demonstrated some changes within the medial collateral ligament consistent with sprain. The rest of the MRI [scan] findings were negative." The note was unsigned.

By decision dated June 17, 2003, the Office denied appellant's claim, finding that the April 10, 2003 incident occurred as alleged, but that the medical evidence of record did not establish that a condition was diagnosed as a result of the incident. Therefore, fact of injury was not established.

The Board finds that appellant has failed to meet his burden of proof in establishing that he sustained an employment-related injury to his left knee on April 10, 2003.

An employee seeking benefits under the Federal Employees' Compensation 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."[1] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[2]

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.[3] In the instant case, there is no dispute that the claimed incident occurred at the time, place and in the manner alleged.

The second component of fact of injury 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.[4] The Office found that the medical evidence was insufficient to support that appellant sustained an injury as a result of the incident.

[1] *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

[2] *David J. Overfield*, 42 ECAB 718, 721 (1991).

[3] *Elaine Pendleton*, *supra* note 1.

[4] *Kathryn Haggerty*, 45 ECAB 383 (1994); *see* 20 C.F.R. § 10.110(a).

In support of his claim, appellant submitted an April 28, 2003 office note by Dr. Ada, a Board-certified orthopedic surgeon, who discussed a follow-up visit for appellant's left knee. He failed to provide a history of injury, a firm diagnosis or to causally relate a diagnosed condition to the April 10, 2003 employment-related incident. The April 28, 2003 office note is insufficient to establish appellant's claim. In an April 17, 2003 office note, Dr. Ada stated that "[appellant] presents today for evaluation of his knee. He has been seen by Dr. Nayak." Dr. Ada went on to say that "[appellant's] MRI [scan] demonstrated some changes within the medial collateral ligament consistent with sprain. The rest of the MRI findings were negative." As in the April 28, 2003 office note Dr. Ada failed to provide a history of injury, diagnosed a sprain, but failed to causally relate a diagnosed condition to the April 10, 2003 employment-related incident. Moreover, as the notes were unsigned, it was of further diminished probative value as any medical evidence the Office relies on to resolve an issue must be in writing and signed by a qualified physician.[5] Therefore, the April 17, 2003 office note is insufficient to establish appellant's claim.

The April 10, 2003 reports submitted by Ms. Volodka, the physician's assistant, are entitled to no weight as a physician's assistant is not a "physician" under the Act.[6]

As appellant failed to submit sufficient medical evidence to support his claim, the Board finds that he has failed to meet his burden of proof.

The decision dated June 17, 2003 of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
October 10, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

[5] *James A. Long*, 40 ECAB 538 (1989).

[6] *See Lyle E. Dayberry*, 49 ECAB 369 (1998); *see also* 5 U.S.C. § 8101(2).