

**United States Department of Labor
Employees' Compensation Appeals Board**

MARY E. LYONS, Appellant

and

DEPARTMENT OF DEFENSE, DEFENSE
FINANCING & ACCOUNTING SERVICE,
Columbus, OH, Employer

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**Docket No. 04-235
Issued: March 4, 2004**

Appearances:
Mary E. Lyons, pro se
Office of the Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

WILLIE T.C. THOMAS, Alternate Member
MICHAEL E. GROOM, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On November 4, 2003 appellant filed a timely appeal from an Office of Workers' Compensation Programs' decision dated September 29, 2003. Under 20 C.F.R. §§ 501(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established that she sustained an injury to her right ring finger while in the performance of duty on February 8, 2002.

FACTUAL HISTORY

Appellant, a 46-year-old accounting technician, filed a claim for a traumatic injury on September 30, 2002, alleging that she cut her right ring finger on a toilet paper dispenser on February 8, 2002.

On October 21, 2002 the Office advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. The Office

asked appellant to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition, and an opinion as to whether her claimed condition was causally related to her federal employment. The Office also informed appellant that a report from a chiropractor was not considered medical evidence unless it included treatment consisting of manual manipulation of the spine and a diagnosis of subluxation as demonstrated by x-ray. The Office requested that appellant submit the additional evidence within 30 days. Appellant did not submit any medical evidence.

By decision dated December 2, 2002, the Office denied appellant's claim, finding that she failed to submit sufficient medical evidence in support of her claim.

By letter dated December 12, 2002, appellant requested a hearing.¹ Appellant alleged that she had asked the hospital where she was treated to submit records pertaining to the February 8, 2002 work accident, but that they had not complied with her request. An oral hearing was held on May 22, 2003. Appellant asserted at the hearing that she would submit relevant medical evidence within 30 days. Appellant did not submit any medical evidence following the hearing.²

By decision dated September 29, 2003, an Office hearing representative affirmed the December 12, 2002 Office decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing that 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.⁴ 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.⁵

To determine whether a federal 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

¹ The letter was addressed to the post office box of the Branch of Hearings and Review, and was considered to be a request for an oral hearing.

² On appeal, appellant indicated that she did submit evidence to the Office. The record transmitted to the Board does not establish that any additional evidence was submitted. New evidence that is submitted on appeal cannot be considered by the Board, as its jurisdiction is limited to evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).

³ 5 U.S.C. § 8101 *et seq.*

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

experienced the employment incident at the time, place and in the manner alleged.⁶ 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.⁷ The medical evidence required to establish causal relationship is usually rationalized medical evidence. 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.⁸

ANALYSIS

In this case, it is uncontested that appellant experienced the employment incident at the time, place and in the manner alleged. However, the question of whether an employment incident caused a personal injury generally can be established only by probative medical evidence, and appellant has not submitted rationalized, probative medical evidence to establish that the employment incident of February 8, 2002 caused a personal injury and resultant disability.⁹

The Office advised appellant of the evidence required to establish her claim; however, appellant failed to submit such evidence. Appellant did not submit a medical report with an accurate history of the employment incident or an opinion on causal relationship between a diagnosed condition and the employment incident. Accordingly, appellant has failed to submit probative medical evidence establishing that she sustained an injury to her right ring finger in the performance of duty. The Office properly denied appellant's claim for compensation.

CONCLUSION

The Board finds that appellant has failed to establish that she sustained an injury to her right ring finger in the performance of duty on February 8, 2002.

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

⁸ *Id.*

⁹ *See John J. Carlone*, 41 ECAB 353 (1989).

ORDER

IT IS HEREBY ORDERED THAT the September 29, 2003 and December 2, 2002 decisions of the Office of Workers' Compensation Programs be affirmed.

Issued: March 4, 2004
Washington, DC

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member