

Washington, DC while on her way to dinner when she lost her balance and fell resulting in a broken femur.

Dr. Charles Helming, a Board-certified orthopedic surgeon, examined appellant on October 15, 2003 noting that she had a 10-year history of Parkinson's disease that was progressing. He stated that she had a number of falls in the past year. On examination Dr. Helming found that appellant had a light tremor characteristic of Parkinson's disease. Dr. Cynthia Taylor, a Board-certified family practitioner, completed a note on October 24, 2003 and reported that appellant had a history of Parkinson's disease.

The Office requested additional factual and medical evidence from appellant in a letter dated November 26, 2003. The Office specifically asked that she describe how she fell.

Dr. Thomas Kinane, a physician Board-certified in emergency medicine, noted on November 7, 2003 that appellant had a "fairly advanced Parkinson's disease." He described her fall and resulting fracture. Dr. Daniel J. Hanson, a Board-certified internist, examined appellant on November 7, 2003 and noted that she had advanced Parkinson's disease. He stated that her physician, Dr. John Roberts, a neurologist, was "contemplating her as a candidate to consider deep brain stimulation."

Dr. Helming completed a form report on November 14, 2003 indicating that appellant had a history of a broken femur at the hip, diagnosed fracture of the left femoral neck. He noted her preexisting impairment of Parkinson's disease and indicated with a checkmark "yes" that appellant's condition was caused by an employment activity stating, "Fell while in Washington, DC at work."

Appellant described her employment injury on December 22, 2003. She stated:

"I fell when I lost my balance while waiting at the bank of elevators at the Grand Hyatt Hotel in Washington, DC where I was attending meetings for the Taxpayer Advocacy Panel of the Internal Revenue Service. When I lost my balance, I fell to the hard marble surface and landed on my left hip."

On December 10, 2003 Dr. Helming submitted a report that appellant had a history of a broken femur at the hip, diagnosing fracture of the left femoral neck, noting appellant's preexisting condition of Parkinson's disease and indicating with a checkmark "yes" that her condition was caused by an employment activity.

A claims examiner telephoned appellant on December 30, 2003 and asked if she could provide a more detailed description of her fall. She simply stated that she fell, with no mention of what caused the fall. Appellant stated that she used a walker and that traveling to and from work and the Seattle, Washington ferry service provided her with an escort while boarding the ferry as she had previously fallen on the ferry. She also stated that she had previously fallen at work with no resulting injury.

In a letter dated December 30, 2003, the Office asked that Dr. Helming provide an opinion as to the cause of appellant's fall, specifically whether he believed her September 30, 2003 fall was due to her Parkinson's disease. Dr. Helming responded on January 9, 2004 and stated:

"In my opinion, [appellant's] fall was caused primarily by her Parkinson's disease. The fall occurred while the patient was in the Washington, DC area, in conjunction with her work for the federal government. I am not aware of any hazardous conditions that may have contributed to her fall."

By decision dated January 26, 2004, the Office denied appellant's claim, finding that her fall on September 30, 2003 was due to an idiopathic condition, Parkinson's disease, based on her history of injury and Dr. Helming's January 9, 2004 report. The Office noted that she had not attributed her injury to any intervention or contribution by any hazard or special condition of employment and that, therefore, her claim was not compensable.

Appellant requested reconsideration of the Office's decision on March 22, 2004 and submitted additional medical evidence. She argued that the cause of her fall could not be attributed to her Parkinson's disease with any certainty, that the risk of the fall was neutral and that her injury was therefore compensable. Appellant submitted a report dated February 13, 2004 from Dr. Roberts, a neurologist, noting that he had treated appellant for Parkinson's disease since September 2001. He stated:

"I believe we cannot determine, with certainty, the exact cause of her fall, which occurred while on a work-related trip to Washington, DC. I acknowledge that Parkinson's disease may have been a contributing factor, although I think it is impossible to determine if it was the only factor in this injury."

In a report dated October 6, 2003, Dr. William Stein, a physician, stated that appellant lost her balance on a marble floor in a hotel and fell onto her left leg resulting in a femoral neck fracture. He listed Parkinson's disease as her secondary diagnosis.

By decision dated May 7, 2004, the Office considered appellant's claim on the merits and denied modification of its January 26, 2004 decision. The Office found that Dr. Robert's opinion was of diminished probative value as he failed to provide any medical rationale for his opinion that appellant's Parkinson's disease was not the only factor that caused her fall.

LEGAL PRECEDENT

The general rule regarding coverage of employees on travel status or on temporary-duty assignments is set forth by Larson, in his treatise, *The Law of Workers' Compensation*.¹

"Employees whose work entails travel away from the employer's premises are held in the majority of jurisdictions to be within the course of their employment continuously during the trip, *except when a distinct departure on a personal*

¹ A. Larson, *The Law of Workers' Compensation* § 25.01 (2000).

errand is shown. Thus injuries arising out of the necessity of sleeping in hotels or eating in restaurants away from home are usually held compensable.”² (Emphasis added.)

The Board has similarly recognized that the Federal Employees’ Compensation Act³ covers an employee 24 hours a day when the employee is on travel status and engaged in activities essential or incidental to such duties.⁴

It is also 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 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.⁵ Such an injury does not arise out of a risk connected with or in the course of employment and it, therefore, is not compensable.⁶ But when the fall is unexplained and, therefore, attributable neither to the employment nor to the claimant personally, the risk is neutral, and an injury arising in the course of employment from neutral risk is compensable.⁷ The question of causal relationship is a medical one and must be resolved by probative medical evidence.⁸ In evaluating whether the medical evidence is sufficient to meet the Office’s burden of proof to establish that the claimant’s fall was due to an idiopathic condition rather than an employment exposure, the Board has considered whether there is evidence of a preexisting condition,⁹ the clarity of the medical evidence attributing the fall to the idiopathic condition and the extent of the medical evidence attributing the fall to the idiopathic condition.¹⁰ While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, neither can such opinion be speculative or equivocal. The opinion should be one of reasonable medical certainty.¹¹

² *Id.*

³ 5 U.S.C. §§ 8101-8193.

⁴ *William T. Bodily*, 52 ECAB 509, 512 (2001).

⁵ *Supra* note 3

⁶ *Martha G. List*, 26 ECAB 200 (1974); *Gertrude E. Evans*, 26 ECAB 195 (1974); *Rebecca C. Daily*, 9 ECAB 255 (1956); see also Larson, *The Law of Workers’ Compensation* §§ 9, 9.01 (2000).

⁷ *Margreate Lublin*, 44 ECAB 945, 958 (1993).

⁸ *Robert J. Choate*, 39 ECAB 103 (1987); *John D. Williams*, 37 ECAB 238 (1985).

⁹ *Karen K. Levene*, 54 ECAB ____ (Docket No. 02-25, issued July 2, 2003) (which the Board noted that the claimant had a diagnosis of seizure disorder of seven years’ duration, and that her physician attributed her fall to a seizure episode).

¹⁰ *Santosh C. Verma*, 53 ECAB __ (Docket No. 00-1512, issued December 12, 2001) (which the Board noted that both of the physicians included in the record attributed the claimant’s fall to stress, anxiety and depression).

¹¹ *Lowell D. Meisinger*, 43 ECAB 992 (1992); *Norman E. Underwood*, 43 ECAB 719, 723 (1992).

If the fall is considered idiopathic in nature, it is compensable only if some job circumstance or working condition intervenes in contributing to the incident or injury.¹² For example, instead of falling directly to the floor, if the claimant suffered an injury as a result of a special hazard of work, such as striking a table as she fell, the Board has found that working conditions intervened in contributing to an employee's injury.¹³

ANALYSIS

Appellant was in travel status and engaging in an activity incidental to her duties at the time her injury occurred, waiting for an elevator in order to descend to a restaurant and have dinner. However, coverage under the Act is not merely determined by her travel status. The record must also establish either that appellant's fall was due to unexplained or neutral circumstances or that it was an idiopathic fall with an intervention or contribution by a hazard or special condition of employment in order for coverage to extend under the Act.

The medical evidence in the record clearly establishes that appellant experienced a medical condition which predisposed her to fall, advanced Parkinson's disease. Dr. Helming, a Board-certified internist, noted on October 15, 2003 that appellant had experienced several falls in the past year due to this condition. Appellant's statements also establish that she had difficulties due to her Parkinson's disease which necessitated the use of a walker in her daily commute as well as an escort to aid in using public transportation. However, there are only two medical reports in the record which directly address whether appellant's idiopathic condition of Parkinson's disease caused her September 30, 2003 fall. Dr. Helming completed a report on January 9, 2004 and stated:

"In my opinion, [appellant's] fall was caused primarily by her Parkinson's disease. The fall occurred while the patient was in the Washington, DC area in conjunction with her work for the Federal Government. I am not aware of any hazardous conditions that may have contributed to her fall."

Appellant's neurologist, Dr. Roberts, stated on February 13, 2004:

"I believe we cannot determine, with certainty, the exact cause of her fall, which occurred while on a work-related trip to Washington, DC. I acknowledge that Parkinson's disease may have been a contributing factor, although I think it is impossible to determine if it was the only factor in this injury."

Dr. Helming provided a clear opinion that appellant's fall was due to her Parkinson's disease. He also noted that appellant had not described any hazardous conditions which lead to her fall. For example, there is no evidence that appellant was moving at the time her fall occurred and fell because the marble floor was slippery. Appellant stated that she was standing waiting for the elevator and simply fell to the floor injuring her hip. Dr. Helming's definite and clear report establishes that appellant's fall was due to her idiopathic condition of Parkinson's

¹² *Roger Williams*, 52 ECAB 468, 471 (2001).

¹³ *Karen K. Levene*, *supra* note 9; *John D. Williams*, *supra* note 8.

disease. He does not support in any way appellant's argument that her fall was merely unexplained. There is no definitive medical report. Consequently, this is not a case in which the medical evidence does not provide any explanation for appellant's fall and the fall is therefore unexplained.¹⁴ The evidence establishes that appellant has an idiopathic condition, Parkinson's disease, and Dr. Helming's December 30, 2003 report establishes with a reasonable degree of medical certainty this condition caused her fall on September 30, 2003.

While Dr. Roberts attempted to support appellant's claim for an unexplained fall, noting that there was no absolute proof of the cause of her fall, he also acknowledged that appellant's Parkinson's disease contributed to her fall. He also failed to provide any description of how appellant's fall may have been due to her employment.¹⁵

There is also no evidence of any intervening work condition that contributed to appellant's incident or injury. Appellant stated that she fell directly on the marble floor without striking anything else in her descent. As appellant has not established that her fall was caused by employment factors and there is no evidence that she struck her body against an object, the fall is considered idiopathic and noncompensable.

CONCLUSION

The Board finds that appellant's September 30, 2003 injury did not occur in the performance of duty as it was due to a personal idiopathic condition with no intervening or contributing employment work conditions.

¹⁴ Compare *Steven S. Saleh*, 55 ECAB ___ (Docket No. 03-2232, issued December 12, 2003) (which the medical evidence offered no clear diagnosis of a specific condition and no medical attribution of the fall to an idiopathic condition); *Marie G. Mareello*, 52 ECAB 363, 366-67 (2001) (which the medical evidence noted that at times there was no clear etiology for syncope); *Janice H. Sligh*, (Docket No. 03-1621, issued March 31, 2004) *Carolyn O'Neal*, Docket No. 03-2064 (issued December 16, 2003) and *Joey W. Jessup*, Docket No. 02-2126 (issued May 12, 2003) (which there was no medical evidence of an idiopathic condition.)

¹⁵ *Roger Williams*, *supra* note 12 at 471-72.

ORDER

IT IS HEREBY ORDERED THAT the May 7 and January 26, 2004 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: January 24, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member