United States Department of Labor
Employees' Compensation Appeals Board

T.S., Appellant	)	
and	)	**Docket No. 07-1350**
	)	**Issued: October 18, 2007**
DEPARTMENT OF THE AIR FORCE, BUCKLEY AIR FORCE BASE, Buckley, CO, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 8, 2007 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decision dated January 25, 2007 denying her claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3 the Board has jurisdiction over the merits and nonmerits of this claim.

ISSUE

The issue is whether appellant established that she sustained an injury in the performance of duty on October 27, 2006, as alleged.

FACTUAL HISTORY

On November 8, 2006 appellant, then a 39-year-old housing flight chief, filed a traumatic injury claim alleging that on October 27, 2006 she sustained an injury to her back when, during the course of her federal employment, her car hit black ice and slid into a frozen snow

embankment. She indicated that when she got out of her car she slipped on ice and fell on her left hip and elbow.

By letter dated December 19, 2006, the Office requested that appellant submit further information including medical evidence in support of her claim. In a note received by the Office on January 10, 2007, appellant indicated that she did not see a doctor until January 3, 2007 because she did not have medical insurance and she thought that the Office had to approve her case before she could be seen.

In further support of her claim, appellant submitted reports by Dr. Christian O. Updike, a family practitioner, who indicated that he saw appellant on January 3, 2007, diagnosed her with cervical strain, prescribed Naprosyn and an aggressive course of physical therapy and released her to regular duty as of that date. In a form dated January 19, 2007, Dr. Updike checked a box to indicate that appellant's history of slipping on ice when getting out of the car was consistent with the mechanism of appellant's injury. Appellant also submitted notes from her physical therapist.

By decision dated January 25, 2007, the Office denied appellant's claim as the medical evidence did not demonstrate that the claimed medical condition was related to the established work event.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim, including the fact that an 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. 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]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first 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 she actually experienced the employment incident at the time, place and in the manner alleged.[3] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[4]

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[1] 5 U.S.C. § 8122(a).

[2] *Id.*

[3] *John J. Carlone*, 41 ECAB 345 (1989).

[4] *Shirley A. Temple*, 48 ECAB 404 (1997).

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to a specific condition of employment.[5] Neither the fact that a condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated his condition is sufficient to establish causal relationship.

ANALYSIS

Appellant alleged that she sustained an injury on October 27, 2006 when, during the course of her federal employment, she slipped on ice while getting out of a car. The Office found that the incident on October 27, 2006 occurred at the time, place and in the manner alleged. The issue is whether she sustained an injury caused by the employment incident.

In support of her claim, appellant submitted reports by Dr. Updike who did not provide a rationalized medial opinion addressing appellant's condition or relating it to the incident of October 27, 2006. Dr. Updike indicated that appellant sustained a cervical strain. He checked a box indicating that the history given by appellant of slipping on ice while getting out of the car was consistent with sustaining a cervical strain, however, he provided no comments or explanation as to why this incident resulted in the diagnosed condition of cervical strain. The Board has held that, when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish a casual relationship.[6]

Appellant also submitted physical therapy notes in support of her claim. However, reports of a physical therapist do not constitute competent medical evidence as a physical therapist is not a physician as defined by section 8101(2) of the Act.[7]

There is insufficient medical evidence to establish that appellant sustained an injury during the course of her federal employment on October 27, 2006. The Board finds that she has failed to meet her burden of proof.

CONCLUSION

The Board finds that appellant has not established that she sustained an injury in the performance of duty on October 27, 2006, as alleged.

[5] *Katherine J. Friday*, 47 ECAB 591 (1996).

[6] *Gary J. Watling*, 52 ECAB 278 (2001); *Lee R. Haywood*, 48 ECAB 145, 147 (1996).

[7] 5 U.S.C. § 8101(2); *Vickey C. Randall*, 51 ECAB 357 (2000).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 25, 2007 is affirmed.[8]

Issued: October 18, 2007
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

[8] Subsequent to the December 13, 2006 Office decision, appellant submitted additional evidence. The Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. See 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.