United States Department of Labor
Employees' Compensation Appeals Board

Q.U., Appellant	)	
and	)	**Docket No. 14-241**
	)	**Issued: June 9, 2014**
DEPARTMENT OF HOMELAND SECURITY, CUSTOMS & BORDER PROTECTION, Los Angeles, CA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On November 15, 2013 appellant filed a timely appeal of a May 20, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish an injury in the performance of duty.

On appeal appellant contends that the medical evidence establishes that the stress of his work caused his myocardial infarction.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On November 14, 2012 appellant, then a 65-year-old customs and border patrol technician, filed a traumatic injury claim alleging that he sustained chest pain, back pain, left arm pain, dizziness, sweating and difficulty breathing that day while in the performance of duty. He stopped work.

In an undated disability note, Dr. Stan Mathioulakis, a treating Board-certified internist, restricted appellant to light-duty work for the period November 14, 2012 to January 14, 2013.

In a November 26, 2012 report, Dr. Jaime Henriquez, an examining Board-certified cardiologist, noted that appellant was seen for posthospital weakness. He diagnosed an old myocardial infarction.

By letter dated December 6, 2012, OWCP informed appellant that the evidence of record was insufficient to support his claim. Appellant's claim had been received and appeared to be a minor injury and the merits of the claim had not been adjudicated. As he had not returned to work, OWCP was reopening his claim for a merit review. Appellant was advised as to the medical and factual evidence required to establish his claim and given 30 days to provide this information.

In response, appellant submitted a statement and medical evidence. He attributed his illness to being rotated among three different terminals over the past year, lifting heavy suitcases, working long hours and being forced to work beyond his shift. Appellant noted that he ended up working about 16 hours per day.

In an August 31, 2011 report, Dr. Vincent L. Antosz, an examining Board-certified internist, reported that appellant had a family history of atherosclerotic heart disease and he had a history of hyperlipidemia. Appellant reported having episodes of exercise-induced chest pains over the past three months that were transient. Dr. Antosz stated that appellant was admitted to Methodist Hospital for possible unstable angina. The diagnoses included chest pain and hyperlipidemia.

In a December 21, 2012 report, Dr. Stan stated that appellant had a history of myocardial infarctions. He recommended that appellant not perform any heavy lifting.

In an undated disability note, Dr. Mathioulakis released appellant to light-duty work on January 13, 2013 with restrictions. He advised that appellant was totally disabled for work from November 24, 2012 to January 12, 2013.

By decision dated January 17, 2013, OWCP denied appellant's claim on the grounds that he failed to establish fact of injury. It found that the factual record contained general information without evidence of a specific incident at work.

On February 11, 2013 appellant requested a review of the written record by an OWCP hearing representative and submitted additional evidence.

In an undated note, Dr. Mathioulakis stated that appellant had a history of stress, anxiety and stent placement with severe dyslipidemia. Appellant attributed his condition to stress in his work.

In an April 21, 2013 statement, Mohommad Khan, a customs and border patrol agricultural specialist, reported that on November 14, 2012 he was notified that appellant was having a heart attack. He rushed to where appellant was and stayed with him until the paramedics arrived.

By decision dated May 20, 2013, an OWCP hearing representative affirmed the denial of appellant's claim. She found that he failed to submit any evidence supporting the work factors that he alleged caused his myocardial infarction. The hearing representative noted that it was appellant's burden to provide a clear and detailed account of the mechanism of injury, whether the claim was occupational or traumatic in nature, which he failed to do. It was unclear from the record whether he was claiming specific factors occurring during one work shift or to factors occurring over more than one work shift, which would constitute an occupational disease claim.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] has the burden of establishing the essential elements of his claim, including the fact that the individual is an employee of the United States within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while 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.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[4]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[5] Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.[6] The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.[7]

[2] 5 U.S.C. § 8101 *et seq.*

[3] *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

[4] *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

[6] *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

[7] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

ANALYSIS

OWCP denied appellant's claim in a decision dated January 17, 2013 finding that the injury did not occur in the manner alleged.

The Board finds that factual evidence of record does not support appellant's claim of a traumatic injury on November 14, 2012. Appellant mentioned generally that he was being rotated among three different terminals over the past year, lifting heavy suitcases, working long hours and being forced to work beyond his shift. He submitted no evidence to support his allegations. Appellant provided no job description or any other evidence corroborating his description of his job duties and the hours he worked. As noted, a traumatic injury is related to work incidents arising within a single shift or workday, as in contrast to an occupational disease.

It is not disputed that appellant was in the performance of duty on November 14, 2012. The Board finds that he failed to establish the fact of injury. Appellant did not meet his burden of proof to establish that he sustained a traumatic injury on November 14, 2012.

In his CA-1 form, appellant provided no detailed account of the alleged incident or corroborating evidence. He presented no evidence regarding the specific mechanism of injury, as required in a claim for traumatic injury, nor did he allege that he experienced a specific event, incident or exposure at a definite time, place and manner.[8] Appellant did not advise exactly what duties he was performing on November 14, 2012 that caused or aggravated his medical condition. His recitation of the facts does not support his allegation that a specific event occurred which caused a work-related injury.[9]

Appellant contends on appeal that the medical evidence is sufficient to establish his claim. As explained, he did not provide any factual evidence establishing the work factors that he alleged caused or aggravated his myocardial infarction. Consequently, the Board does not need to consider the medical evidence with respect to causal relationship.[10]

OWCP advised appellant of the evidence required to establish his claim; however, he failed to submit such evidence. As appellant has failed to submit any probative medical evidence establishing that he sustained an injury due to the employment factors he identified, he has failed to meet his burden of proof. As he has not met his burden of proof to establish the fact of injury, it is not necessary to discuss the probative value of the medical reports.[11]

[8] *See Tracey P. Spillane*, 54 ECAB 608 (2003); *Betty J. Smith*, 54 ECAB 174 (2002).

[9] *Paul Foster*, 56 ECAB 208 (2004) (the Board found that appellant had failed to establish the fact of injury where his allegations were vague and undocumented and did not relate with specificity the cause or immediate consequences of the claimed injury).

[10] *D.F.*, Docket No. 10-1774 (issued April 18, 2011); *Bonnie A. Contreras*, *supra* note 3.

[11] *See Tracey P. Spillane*, *supra* note 8.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not established that an injury was sustained in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 20, 2013 is affirmed.

Issued: June 9, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board