United States Department of Labor
Employees' Compensation Appeals Board

A.S., Appellant	)	
and	)	**Docket No. 07-1701**
	)	**Issued: December 10, 2007**
DEPARTMENT OF THE AIR FORCE, EDWARD AIR FORCE BASE, CA, Employer	)	

Appearances:
Alan Sudbury, 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
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On June 12, 2007 appellant filed a timely appeal from the May 23, 2007 decision of the Office of Workers' Compensation Programs denying his traumatic injury claim. Pursuant to 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 has established that he sustained an injury in the performance of duty on December 14, 2006, as alleged.

FACTUAL HISTORY

On December 14, 2006 appellant, then a 46-year-old machinist training leader, filed a traumatic injury claim alleging that he cut the index finger of his left hand that day when it became caught between a removal tool and a fuselage. Jim Bellay, a coworker, stated that appellant was removing the bushing when he stepped back and stated that he cut his finger. The employing establishment stated that appellant reported the incident on December 14, 2006, and that he lost no time from work. The claim was not controverted.

On December 15, 2006 an unidentified physician at the Sierra Medical Group released appellant to work on December 16, 2006 with instructions to keep his wound dressing clean and dry. The physician did not provide a diagnosis of appellant's condition.

On April 12, 2007 the Office requested additional medical information to establish appellant's claim. Appellant did not respond within the allotted time.

By decision dated May 23, 2007, the Office denied appellant's claim. It found that appellant's finger was caught between a tool and a fuselage as alleged. However, because the treating physician provided no diagnosis, the Office found that appellant had not established fact of injury.

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 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, that an injury was sustained while in the performance of duty, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[2]

In order to determine whether an employee sustained a traumatic injury in the performance of duty, the Office must first determine whether "fact of injury" has been established. "Fact of injury" consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the incident caused a personal injury and, generally, this can be established only by medical evidence.[3]

When determining whether the implicated employment factors caused the claimant's diagnosed condition, the Office generally relies on the rationalized medical opinion of a physician.[4] The Office recognizes, however, that a case may be accepted without a medical report if: (1) the condition reported is a minor one that can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting or animal bite); (2) the injury was witnessed or reported promptly and no dispute exists as to the fact of injury; and (3) no time was lost from work due to disability.[5]

[1] 5 U.S.C. §§ 8101-8193.

[2] *Caroline Thomas*, 51 ECAB 451 (2000); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[3] *Ellen L. Noble*, 55 ECAB 530 (2004).

[4] *Conard Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

[5] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3.d(1) (July 2000).

ANALYSIS

The Office has accepted that appellant caught his finger between a piece of equipment and a fuselage. Therefore the issue is whether appellant has established that he sustained an injury as a result of that incident.

On December 15, 2006, the day after the accepted incident, appellant sought medical treatment from the Sierra Medical Group. An unidentified physician released him to work on December 16, 2006 with instructions to keep his wound dressing clean and dry. The physician did not provide a diagnosis of the condition for which he was treating appellant. Though medical evidence is generally required under the Act, the Board finds that appellant's claim falls into the category of cases, described above, that can be established without a physician's report. His condition, a cut on the finger, could be identified on visual inspection by a lay person.[6] A coworker witnessed the injury and appellant promptly reported it to the employing establishment, which did not dispute his claim.[7] Finally, despite the fact that an unidentified physician stated that appellant was to remain off of work for one shift, the employing establishment indicated that appellant did not lose any time from work.[8] The Board finds that appellant has met his burden of establishing fact of injury.[9]

CONCLUSION

The Board finds that appellant has established that he sustained an injury in the performance of duty on December 14, 2006, as alleged.

[6] *Id*. at Chapter 2.0805.3.d(1)(a) (July 2000).

[7] *Id*. at Chapter 2.805.3.d(1)(b) (July 2000).

[8] *Id*. at Chapter 2.805.3.d(1)(c) (July 2000).

[9] *Cf., Deborah L. Beatty*, 54 ECAB 340 (2003), where the Board found that injuries allegedly sustained by appellant in a motor vehicle accident in the performance of duty were not so obvious and required a rationalized medical report establishing causal relationship.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 23, 2007 is reversed.

Issued: December 10, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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