

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD SMITH and U.S. POSTAL SERVICE,
POST OFFICE, Houston, Tex.

*Docket No. 96-1297; Submitted on the Record;
Issued March 10, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty on May 24, 1995.

The Board has duly reviewed the case record in the present appeal and finds that the case is not in posture for decision regarding whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty on May 24, 1995.

An employee who claims benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or his claim.² 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 specific conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, establishing causal relationship.³ However, it is well established that proceedings under the Act are not adversarial in nature, and while the claimant has the burden to establish entitlement to compensation, the Office of Workers' Compensation Programs shares responsibility in the development of the evidence.⁴

In the present case, appellant alleged that he sustained injury when he passed out and fell at work on May 24, 1995. By decision dated August 9, 1995, the Office denied appellant's claim on the grounds that he did not submit sufficient factual and medical evidence to show that he

¹ 5 U.S.C. §§ 8101-8193.

² *Ruthie Evans*, 41 ECAB 416, 423-24 (1990); *Donald R. Vanlehn*, 40 ECAB 1237, 1238 (1989).

³ *Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

⁴ *Dorothy L. Sidwell*, 36 ECAB 699 (1985); *William J. Cantrell*, 34 ECAB 1233 (1983).

sustained an employment injury on May 24, 1995 and, by decisions dated October 2, 1995 and January 4, 1996, the Office denied modification of its August 9, 1995 decision. Appellant submitted medical evidence in support of his claim, including an August 23, 1995 report in which Dr. Moshe Allon, an attending Board-certified neurologist, stated that appellant was found to have suffered an abrasion on his right elbow and left ear after losing consciousness on the job. He indicated that appellant most likely had a syncopal episode which might have triggered a seizure. Dr. Allon stated that appellant reported working outside in hot weather on the day of the episode and noted, "Therefore, I think his syncope on the job most likely resulted from the hot weather."

It is 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 to 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. Such an injury does not arise out of a risk connected with the employment and, therefore, it is not compensable.⁵ However, as the Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained, or that the reason it occurred cannot be explained does not establish that it was due to an idiopathic condition. This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to the general rule.⁶ The Board has held that if the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely established that a physical condition preexisted the fall and caused the fall.⁷

None of the medical reports submitted by appellant clearly addresses whether his fall of May 24, 1995 was idiopathic in nature, *i.e.*, whether it was caused by a personal, nonoccupational pathology without intervention by a condition of employment, or otherwise includes any extensive discussion of appellant's past medical history which might explain the cause of his condition leading to his fall. The Office did not specifically request that appellant's physicians address the issue of the etiology of his fall to confirm or negate whether his fall was idiopathic in nature, in which case appellant would have a preexisting physical condition which preexisted and caused the fall, or whether it was an unexplained fall, which is a neutral risk as it is neither attributable to the employment nor appellant personally, and therefore compensable under the general rule that an injury in premises during work hours is compensable unless within an exception to the rule.⁸ According to Office procedure, the Office is responsible for obtaining appropriate evidence from the injured employee, the immediate supervisor, witnesses and

⁵ *Amrit P. Kaur*, 40 ECAB 848, 853 (1989); *Robert J. Choate*, 39 ECAB 103, 106 (1987).

⁶ *Emelda C. Arpin*, 40 ECAB 787, 789 (1989); *Judy Bryant*, 40 ECAB 207, 213 (1988).

⁷ *See Martha G. List (Joseph G. List)*, 26 ECAB 200, 204-05 (1974).

⁸ *See Martha G. List*, *supra* note 7 at 205; A. Larson, *The Law of Workmen's Compensation* § 7.30 (1996) (providing a definition of a neutral risk). The record contains medical evidence which indicates that appellant had a family history of seizure but the record is not entirely clear on this matter.

attending physicians showing whether a given fall is due to an idiopathic condition or an unknown cause.⁹

Accordingly, the case will be remanded to the Office for further evidentiary development regarding the issue of whether appellant sustained an employment-related injury on May 24, 1995.¹⁰ The Office should prepare a statement of accepted facts and obtain a medical opinion on this matter. After such development of the case record as the Office deems necessary, an appropriate decision shall be issued.

The decisions of the Office of Workers' Compensation Programs dated January 4, 1996, October 2 and August 9, 1995 are set aside and the case remanded to the Office for further proceedings consistent with this decision of the Board.

Dated, Washington, D.C.
March 10, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

⁹ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.9b (August 1992).

¹⁰ In addition to evaluating whether appellant sustained an idiopathic or unexplained fall, the Office should evaluate whether he sustained an injury related to the climatic conditions under which he was working on May 24, 1995.