U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of QUARTRYCE B. SKYES and U.S. POSTAL SERVICE,
POST OFFICE, Edison, N.J.

Docket No. 97-2215; Submitted on the Record;
Issued May 18, 1999

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she sustained stressed hands in the performance of duty on February 5, 1997, as alleged.

On February 18, 1997 appellant, then a 42-year-old letter sorting machine clerk filed a claim alleging that she sustained employment-related stressed hands when a supervisor questioned her about working on the flat sorting machine on February 5, 1997. The record shows that appellant lost no time from work due to the alleged injury, but was placed on a limited-duty status.

The employing establishment has controverted appellant's claim for benefits arguing that the appellant has failed to show how and why her stressed hands was caused or aggravated by her federal employment because she was questioned by a supervisor about working on the flat sorting machine.

Appellant submitted in support of her claim a duty status report (Form CA-17) which contains both a date of February 10 and 12, 1997, from Dr. Alvin J. Woods, specializing in physical medicine. Dr. Wood's clinical finding revealed that appellant was having weakness of the hands and indicated that the diagnosed condition was due to carpal tunnel syndrome because of repetitive stress syndrome.... Dr. Woods also checked a "Yes" box to a form indicating that the history of injury presented by appellant corresponded with repetitive stress syndrome and placed appellant on a limited-duty status.

In a letter dated March 20, 1997, the Office of Workers' Compensation Programs advised appellant that the evidence of file was insufficient to establish her claim for compensation benefits and advised her of the type of factual and medical evidence needed to establish her claim and requested that she submit such evidence. The Office particularly requested that appellant provide a comprehensive medical report from her treating physician which describes her symptoms; results of examinations and tests (including Phalen's and Tinel's signs and results

of any nerve conduction or electromyogram studies); diagnosis; the treatment provided; the effect of treatment; and the physician's opinion, with medical reasons, on the cause of appellant's condition and a explanation of how and why specific work factors contributed to or caused her condition. Appellant was allotted 30 days within which to submit the requested evidence.

By letter dated April 2, 1997, appellant responded to the Office's March 20, 1997 informational letter, but submitted no additional evidence.

In a decision dated May 27, 1997, the Office denied appellant's claim for compensation benefits on the grounds that the medical evidence of file failed to establish fact of injury. The Office found that the evidence of file was insufficient to establish that appellant experienced the claimed medical condition at the time, place and in the manner alleged.

The Board finds that the February 5, 1997 employment incident occurred at the time, place and in the manner described by appellant; however, an injury resulting from that incident has not been established.[1]

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing that 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 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.[3] 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.[4]

In order to determine whether an employee has sustained a traumatic injury in the performance of duty, it must first determine whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that she or he actually experienced the employment incident at the time, place and in the manner alleged.[5] Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.[6] An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that her or his disability and/or a specific condition for which

[1] Following the Office's March 20, 1997 decision appellant submitted additional medical evidence. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). This, however, does not preclude appellant from having such evidence considered by the Office as part of a reconsideration request.

[2] 5 U.S.C. §§ 8101-8193.

[3] *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *David J. Overfield*, 42 ECAB 718 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[5] *John J. Carlone*, 41 ECAB 354 (1989).

[6] *Id.* For a definition of the term "*injury*," see 20 C.F.R. § 10.5(a)(14).

compensation is claimed

are causally related to the injury.[7] The Office cannot accept fact of injury if there are such inconsistencies in the evidence as to seriously question whether the specific event or incident occurred at the time, place and in the manner alleged, or whether the alleged injury was in the performance of duty.[8] Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury and failure to obtain medical treatment may cast doubt on an employee's statements in determining whether she or he has established her or his claim.[9] However, an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.[10]

In the instant case, it is not disputed that appellant has a bilateral hand condition, but the Office found that the events alleged to have caused appellant's condition did not occur as alleged. The Board notes that while the employing establishment contested the precise mechanism, in which appellant sustained her diagnosed condition, it did not dispute the fact appellant was questioned by a supervisor about working on the flat letter machine on February 5, 1997. The relevant evidence is essentially consistent in indicating that on February 5, 1997 appellant was questioned by a supervisor about working on the flat sorting machine, therefore, the Board finds that the incident occurred at the time, place and in the manner alleged.

With respect to whether the February 5, 1997 work incident resulted in an injury, the employing establishment has also challenged whether the supervisor's questions to appellant about working on the flat letter machine caused her diagnosed condition. The Office found that there was no rationalized medical opinion evidence to support the fact that appellant suffered an injury or disability causally related to any specific work place factors. The only evidence submitted by appellant in this case is a duty status report from Dr. Woods, which revealed a clinical finding of having weakness of the hands and indicated that the diagnosed condition was due to carpal tunnel syndrome because of repetitive stress syndrome and checked a "Yes" box to a form question indicating that appellant's diagnosed condition of repetitive stress syndrome corresponded with her description of how the injury occurred and placed appellant on a limited-duty status.

The Board has held that when a physician's opinion on causal relationship consist only of checking "Yes" to a form question, that opinion has little probative value as there is no explanation or rational supporting the opinion on causal relationship between the diagnosed condition or disability and working conditions.[11] Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound

[7] As used in the Act, the term "*disability*" means incapacity because of an injury in employment to earn wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity; *see Frazier V. Nichol*, 37 ECAB 528 (1986).

[8] *Elaine Pendleton*, *supra* note 3.

[9] *Merton J. Sills*, 39 ECAB 572 (1988).

[10] *Constance G. Patterson*, 41 ECAB 206 (1989); *Thelma S. Buffington*, 34 ECAB 104 (1982).

[11] *George V. Lambert*, 44 ECAB 870 (1993); *Lillian M. Jones*, 34 ECAB 379(1982).

medical reasoning. As Dr. Wood did no more than check "yes" to a form question, his opinion on causal relationship is of little probative value and is insufficient to discharge appellant's burden of proof. Dr. Wood did not describe appellant's employment injuries or provide a rationalized medical opinion explaining why and how it caused the diagnosed condition.[12]

Additionally, appellant's own statements of the facts surrounding the accepted employment incident are not relevant to the main issue of the present case, *i.e.*, whether appellant has submitted sufficient medical evidence to support her claim that she sustained stressed hands as a result of being questioned by a supervisor about working on the flat letter machine on February 5, 1997.[13] Appellant was advised of the deficiencies in her claim on March 20, 1997 and afforded the opportunity to provide supportive evidence, however, no additional evidence addressing whether any medical condition arose out of the incident of February 5, 1997 was submitted. Consequently, appellant has not submitted rationalized medical evidence, based on a complete history, explaining how and why her diagnosed condition is employment related. As noted above, the question of whether an employment incident caused a personal injury generally can only be established by medical evidence. Such evidence was not received.

The decision of the Office of Workers' Compensation Programs dated May 27, 1997 is hereby affirmed as modified.

Dated, Washington, D.C.
May 18, 1999

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

[12] *Id.*

[13] *Victor J. Woodhams*, *supra* note 4.