

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEPHEN G. HUDSON and DEPARTMENT OF VETERANS AFFAIRS,
ATLANTA VETERANS HOSPITAL, Decatur, GA

*Docket No. 02-642; Submitted on the Record;
Issued September 19, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury to his right side in the performance of duty.

On May 25, 2001 appellant, then a 49-year-old clinical social worker, filed a claim alleging that on May 16, 2001, he attempted to sit in a chair and it collapsed and he injured his right side. Appellant did not stop work.

In support of his claim appellant submitted medical records from the employing establishment dated August 20, 1998 to May 18, 2001. The records noted a history of appellant's injury indicating that he was visiting a nursing home and he attempted to sit down and the cushion gave way causing him to fall to the floor. Appellant struck his right flank above the belt and was experiencing soreness and chest pain. He was diagnosed with status post fall and given oral analgesics. The treatment note from May 18, 2001 indicated that appellant underwent a chest x-ray, however, the results were still pending.

The employing establishment submitted a witness statement dated May 22, 2001. The witness indicated that appellant attempted to sit down and the chair gave way. The witness indicated that appellant immediately stood up and laughed. The witness noted that appellant did not hit the floor and did not appear to be injured.

In a letter dated June 8, 2001, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish his claim and requested he submit such evidence. The Office particularly requested that appellant submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific employment factors.

In a decision dated July 26, 2001, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that his condition was caused by the alleged injury on May 16, 2001 as required by the Federal Employees' Compensation Act.¹

The Board finds that appellant has failed to establish that he sustained an injury in the performance of duty, causally related to the factors of his federal employment.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or his 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 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 is causally related to the employment injury."² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.³

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another.

The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁴

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁵

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 claimant. The weight of medical evidence is determined by its reliability, its probative

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁶

In this case, it is not disputed that on May 16, 2001 appellant was attempting to sit in a chair which collapsed and he fell hitting his right flank. However, the medical evidence is insufficient to establish that the incident caused an injury. In a letter dated June 8, 2001, the Office advised appellant of the type of medical evidence necessary to establish his claim. The Office also requested specific medical information regarding appellant's condition. Appellant did not submit any additional information.

The only medical evidence submitted in support of appellant's case was employing establishment treatment notes from May 17 to May 18, 2001. The records note a history of appellant's injury indicating that he was visiting a nursing home when a chair he attempted to sit in collapsed causing him to fall to the floor. The records indicate that appellant struck his right flank above the belt and was experiencing soreness and chest pain. Appellant was diagnosed with status post fall and given oral analgesics. The treatment note from May 18, 2001 indicated that appellant underwent a chest x-ray but the results were not available. However, these notes are unclear as to both a diagnosis and whether a medical condition was caused or otherwise affected by the accepted employment factor. Moreover, these notes do not provide findings upon physical examination, diagnosis⁷ or a rationalized opinion as to the causal relationship between appellant's employment and his injury.⁸ The person seeking compensation benefits has the burden of proof to establish the essential elements of the claim. Appellant has failed to do this. His own unsupported assertion of an employment relationship is not proof of the fact. In a case such as this, proof must include supporting rationalized opinion of qualified medical experts, based on complete and accurate factual and medical backgrounds, establishing that the implicated incidents caused or materially adversely affected the ailments producing the work disablement.⁹ The Board finds that appellant has not met the fundamental prerequisite of the Act with respect to his claim.

⁶ *James Mack*, 43 ECAB 321 (1991).

⁷ See *Cowan Mullins*, 8 ECAB 155, 158 (1955) (where the Board held that a medical opinion based on an incomplete history was insufficient to establish causal relationship).

⁸ See *Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

⁹ See *Margaret A. Donnelly*, 15 ECAB 40 (1963).

The decision of the Office of Workers' Compensation Programs dated July 26, 2001 is hereby affirmed.

Dated, Washington, DC
September 19, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member