

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of AVA L. PRIOLEAU and U.S. POSTAL SERVICE,
MORGAN POSTAL DELIVERY CENTER, New York, NY

*Docket No. 03-1299; Submitted on the Record;
Issued February 24, 2004*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof to establish that her fall at work on May 26, 2002 was sustained in the performance of duty.

On May 30, 2002 appellant, a 38-year-old clerk, filed a traumatic injury claim alleging that on May 26, 2002 she injured her left shoulder, head and knee when she fainted and fell onto the floor. Appellant immediately reported the incident.

In a May 26, 2002 statement, Reginald T. Gardner, supervisor, stated that he found appellant sitting on the floor. She related to him that she had not eaten anything that day and had diarrhea since the previous day.

In a May 30, 2002 report, Dr. Jamil M. Abraham, a Board-certified pediatrician, diagnosed head trauma, cervical sprain, left shoulder sprain and left knee sprain due to her fainting and falling on May 26, 2002. Dr. Abraham reported a history of cardiomyopathy and congestive heart failure and related appellant was on medication.

In an undated attending physician's report (Form CA-20), Dr. Abraham J. Lock, a Board-certified internist, left unchecked whether appellant's condition was caused or aggravated by her employment. In a June 3, 2002 report, Dr. Lock diagnosed postconcussion syndrome and head trauma, thoracic and cervical spine strain with radiculitis, left pelvis/hip sprain, left shoulder spring with acromioclavicular joint disease, left ankle sprain, left knee sprain with ligament strain/meniscus disease and syncope.

By letter dated July 10, 2002, the Office of Workers' Compensation Programs requested additional medical and factual information. Appellant was asked whether she felt her job caused or contributed to the claimed work incident and whether she fell directly to the floor or struck an object on the way down.

Appellant submitted reports dated July 8 and August 23, 2002 by Dr. Lock in response to the Office's July 10, 2002 letter. Dr. Lock diagnosed thoracic and cervical spine sprains with radiculitis, left knee strain and left shoulder sprain with acromioclavicular joint disease.

In an October 10, 2002 report, the Office medical adviser found the evidence sufficient to establish a cervical sprain, knee sprain and left shoulder sprain. In an October 29, 2002 clarification report, the Office medical adviser opined that employment factors were not responsible for appellant's fainting spell on May 26, 2002. The Office medical adviser opined that appellant's fainting was due to a preexisting condition, "possibly including a potassium deficiency."

By decision dated November 4, 2002, the Office denied appellant's claim for compensation on the basis that the medical evidence failed to establish that her condition was caused by factors of employment.¹

The Board finds that appellant met her burden of proof to establish that her fall at work on May 26, 2002 was sustained in the performance of duty.

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 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 or in the course of employment and it, therefore, is not compensable.² The question of causal relationship is a medical one and must be resolved by probative medical evidence.³

The Board has recognized that, although a fall is idiopathic, an injury resulting from an idiopathic fall is compensable if "some job circumstance or working condition intervenes in contributing to the incident or injury, for example, the employee falls onto, into or from an instrumentality of the employment"⁴ or where, instead of falling directly to the floor on which he

¹ The Board notes that, subsequent to the Office's November 2, 2002 decision, the Office received additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a).

² *Margaret Cravello*, 54 ECAB ____ (Docket No. 03-256, issued March 24, 2003); *Martha G. List*, 26 ECAB 200 (1974); *Gertrude E. Evans*, 26 ECAB 195 (1974); *Rebecca C. Daily*, 9 ECAB 255 (1957); *see also* Larson, *The Law of Workers' Compensation* §§ 9, 9.01 (2000).

³ *Donna L. Mims*, 53 ECAB ____ (Docket No. 01-1835, issued August 13, 2002); *Robert J. Choate*, 39 ECAB 103 (1987); *John D. Williams*, 37 ECAB 238 (1985).

⁴ *Rebecca C. Daily*, *supra* note 2.

has been standing, the employee strikes a part of his body against a wall, a piece of equipment, furniture or machinery or some like object.⁵ Appellant has the burden of establishing that she struck an object connected with the employment during the course of her idiopathic collapse.⁶

In the present case, the medical evidence consists of reports by Drs. Lock and Abraham and the Office medical adviser. Dr. Abraham noted a history of cardiomyopathy and congestive heart failure and that appellant was on medication. In this report, he noted that appellant had a fainting spell on May 26, 2002 and sustained a head trauma, cervical strain, left shoulder sprain and left knee sprain. No opinion was provided as to whether appellant's fainting was due to employment factors. Moreover, on an attending physician's form he left unchecked whether appellant's condition was caused or aggravated by her employment. Dr. Lock diagnosed thoracic and cervical spine sprains with radiculitis, left knee strain and left shoulder sprain with acromioclavicular joint disease without offering an opinion as to the cause of the injury. The Office medical adviser concluded the fall was unrelated to her employment and was due to a preexisting condition, "possibly including a potassium deficiency."

In the cases of idiopathic falls, the Board has held that it is the Office's burden to present medical evidence showing the existence of a personal, nonoccupational pathology if it chooses to make a finding that a given fall is idiopathic in nature. The medical evidence in this case does not establish that appellant's fall was due to a personal, nonoccupational pathology without employment contribution. While the Office medical adviser concluded the fall was unrelated to employment factors, the opinion does not establish the cause of the fall. The remaining medical reports do not discuss the cause of appellant's fall. The fall thus remains an unexplained fall which occurred while appellant was engaged in activities incidental to her employment and is compensable.⁷

⁵ *Roger Williams*, 52 ECAB ____ (Docket No. 00-2240, issued August 8, 2001); *Chunny Wong*, 31 ECAB 579 (1980); *Pauline Finley*, 19 ECAB 481 (1968); *Wilford M. Smith*, 9 ECAB 259 (1957).

⁶ *Gertrude E. Evans*, *supra* note 2.

⁷ *See Dora J. Ward*, 43 ECAB 767 (1992).

The decision of the Office of Workers' Compensation Programs dated November 4, 2002 is hereby set aside and the case is remanded to the Office to determine the nature and extent of any disability causally related to the May 26, 2002 fall.

Dated, Washington, DC
February 24, 2004

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member