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ROBERT J. CINQUEGRANO, Appellant)	
)	
and)	Docket No. 06-04
)	Issued: January 18, 2006
DEPARTMENT OF HOMELAND SECURITY,)	
TRANSPORTATION SECURITY)	
ADMINISTRATION, Fort Myers, FL, Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

On September 28, 2005 appellant filed a timely appeal of a decision of the Office of Workers' Compensation Programs dated September 2, 2005 which denied his request for compensation for the period November 1, 2003 to December 31, 2004. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over this claim.

The issue is whether appellant has met his burden of proof in establishing that he was disabled from November 1, 2003 to December 31, 2004 due to his November 1, 2003 employment injuries.

On November 6, 2003 appellant, then a 59-year-old transportation security screener, filed a traumatic injury claim alleging that he became light-headed and dizzy and fell to the floor on

his back on November 1, 2003 while screening baggage in the performance of his duties.¹ Appellant stopped work on November 1, 2003.

In support of his claim, appellant submitted various medical treatment records from Dr. S. Pallegar, a family practitioner. In a June 20, 2003 report, Dr. Pallegar noted treating appellant since November 2001 and recommended that appellant be transferred to a position with less travel time. He noted that appellant had left shoulder arthritis, neck stiffness, insomnia and weight loss. In an October 16, 2003 report, Dr. Pallegar opined that appellant had a cerebrovascular accident on July 31, 2003 and reiterated his request that appellant be able to work a job with less travel time.

The employing establishment terminated appellant, effective August 4, 2004, for physical inability to perform essential functions of his job.

In a December 15, 2004 report, Dr. Pallegar opined that appellant had an episode of vertigo due to job stress that included driving and heavy lifting.

On February 25, 2005 the Office accepted the claim for a single episode of vertigo.²

On March 27, 2005 appellant submitted a CA-7 claim requesting wage-loss compensation for disability from November 1, 2003 to December 31, 2004. By letter dated May 6, 2005, the Office requested that appellant submit medical evidence to support that his accepted episode of vertigo disabled him for the claimed period. The Office requested that appellant provide a reasoned opinion from an attending physician to explain whether his disability from November 1, 2003 to December 31, 2004 was related to a single episode of vertigo or his cardiac condition. The Office allotted appellant 30 days within which to submit the requested information.

By decision dated September 2, 2005, the Office denied the claim for compensation as the medical evidence failed to establish that appellant was disabled for work commencing November 1, 2003 to December 31, 2004 as a result of the accepted work injury. The Office noted that no response was received to its request that appellant submit medical evidence to support his claim.

¹ The record reflects that appellant had a cardiac condition, which was not accepted by the Office.

² In a previous decision dated January 22, 2004, the Office denied appellant's claim. However, appellant requested a hearing on February 21, 2004 which was held on November 30, 2004. By decision dated February 10, 2005, the Office hearing representative reversed the January 22, 2004 decision and accepted the claim for a single episode of vertigo on November 1, 2003 causally related to lifting a heavy bag on that date.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act³ has the burden of proof to establish the essential elements of his claim by the weight of the evidence,⁴ including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.⁵

The term "disability" means incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury.⁶ When the medical evidence establishes that the residuals of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in his employment, he is entitled to compensation for any loss of wage-earning capacity resulting from such incapacity.⁷

Whether a particular injury causes an employee to become disabled for work and the duration of that disability, are medical issues that must be proved by a preponderance of the reliable, probative and substantial evidence.⁸ Generally, findings on examination are needed to justify a physician's opinion that an employee is disabled for work.⁹ The Board has held that when a physician's statements regarding an employee's ability to work consist only of a repetition of the employee's complaints that he or she hurt too much to work, without objective signs of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.¹⁰ While there must be a proven basis for the pain, due to an employment-related condition can be the basis for the payment of compensation.¹¹ The Board, however, will not require the Office to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.¹²

³ 5 U.S.C. §§ 8101-8193.

⁴ *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ 20 C.F.R. § 10.5(f).

⁷ *Bobby W. Hornbuckle*, 38 ECAB 626 (1987).

⁸ *Edward H. Horton*, 41 ECAB 301 (1989).

⁹ *See Dean E. Pierce*, 40 ECAB 1249 (1989); *Paul D. Weiss*, 36 ECAB 720 (1985).

¹⁰ *John L. Clark*, 32 ECAB 1618 (1981).

¹¹ *Barry C. Peterson*, 52 ECAB 120 (2000).

¹² *Fereidoon Kharabi*, 52 ECAB 291 (2001).

ANALYSIS

Appellant did not provide any medical documentation to support his claim for compensation for the period November 1, 2003 to December 31, 2004. By letter dated May 6, 2005, the Office requested medical documentation from appellant in support of his claim. However, he did not provide any response or evidence to establish that he was disabled from November 1, 2003 to December 31, 2004, as a result of his accepted episode of vertigo on November 1, 2003.

Although there is medical evidence of record within the claimed period, this evidence does not attribute any disability to appellant's accepted episode of vertigo on November 1, 2003. Dr. Pallegar's reports do not specifically relate any particular period of disability to the accepted episode of vertigo. He noted that appellant be transferred to a position with less travel time but he did not address any disability due to the accepted injury. As noted above, the Board will not require the Office to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. This is especially important in a case such as this where appellant has several other conditions not accepted as employment related.

The Board finds that appellant has failed to submit rationalized medical evidence establishing that his disability from November 1, 2003 to December 31, 2004 was causally related to his accepted employment injury, and thus, he has not met his burden of proof.

CONCLUSION

The Board finds that appellant failed to establish that he was disabled for the period commencing November 1, 2003 to December 31, 2004 to the present as a result of his employment-related single episode of vertigo.

ORDER

IT IS HEREBY ORDERED THAT the September 2, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 18, 2006
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