



By letter dated July 13, 2007, the Office advised appellant that additional factual and medical evidence was needed to establish his claim. It requested a physician's opinion addressing causal relationship, providing 30 days to submit the requested information. Appellant did not respond.

By decision dated August 14, 2007, the Office denied appellant's claim finding that he did not establish an injury as alleged. The evidence was insufficient to establish that the claimed event occurred as alleged.

Appellant requested reconsideration on October 22, 2007. He submitted an occupational injury or illness report dated September 22, 2006. It provided a history that he was leaning on a student table when it fell apart and he hurt his buttocks and back. The report was signed by a nurse practitioner. She diagnosed a contusion to the back and coccyx and low back pain.

By decision dated February 5, 2008, the Office modified its August 14, 2007 decision to find that appellant fell at work on September 22, 2006. However, it found that he had not provided sufficient medical evidence to establish an injury from the September 22, 2006 incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing 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<sup>2</sup> and that an injury was sustained in the performance of duty.<sup>3</sup> These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. The employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>5</sup> The employee must also submit sufficient medical evidence, to establish that the employment incident caused a personal injury.<sup>6</sup>

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>4</sup> *Delores C. Ellyet*, 41 ECAB 992 (1990).

<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>6</sup> *Id.*

### ANALYSIS

The Office accepted that appellant fell to the ground on September 22, 2006 when a student desk he was leaning upon collapsed. The Board finds, however, that the medical evidence is insufficient to establish that this employment incident caused an injury.

In support of his claim, appellant submitted a September 22, 2006 occupational illness or injury report from a nurse practitioner. Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence provided by a qualified physician.<sup>7</sup> A nurse practitioner is not a “physician” as defined under the Act and the submitted report is of no probative value in establishing that the fall at work caused or contributed to a personal injury.<sup>8</sup> The September 22, 2006 report is insufficient to establish that the fall at work caused an injury on that date as it does not constitute probative medical evidence.

Appellant did not submit any medical reports which address how the September 22, 2006 fall at work caused a low back or coccyx injury. The Board finds that he has not met his burden of proof to establish that he sustained an injury causally related to the accepted employment incident.

### CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury on September 22, 2006.

---

<sup>7</sup> See *Paul E. Thams*, 56 ECAB 503, 509 (2005).

<sup>8</sup> See 5 U.S.C. § 8101(2); *Paul Foster*, 56 ECAB 208 (2004); *Thomas R. Horsfall*, 48 ECAB 180 (1996).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 5, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 2, 2008  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board