United States Department of Labor
Employees' Compensation Appeals Board

C.M., Appellant	)	
and	)	**Docket No. 07-2251**
U.S. POSTAL SERVICE, POST OFFICE, Shaker Heights, OH, Employer	)	**Issued: March 6, 2008**

Appearances:
Alan Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 4, 2007 appellant filed a timely appeal from a June 11, 2007 decision of the Office of Workers' Compensation Programs which denied his traumatic injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of appellant's claim.

ISSUE

The issue is whether appellant sustained a traumatic injury in the performance of duty on January 6, 2007.

FACTUAL HISTORY

On April 26, 2007 appellant, then a 38-year-old letter carrier, filed a traumatic injury claim alleging that on January 6, 2007 at 1:00 p.m. "carrier was making a left hand turn" when he sustained a back sprain.

On May 4, 2007 the Office informed appellant that the evidence was insufficient to establish his claim. It advised him "[i]t is not known what 'carrier was making a left hand turn'

means. Please state where you were and what you were doing at the time your injury occurred. Provide a detailed description as to how your injury occurred." The Office also requested that appellant explain why the injury was not reported within 30 days.

Work status reports dated January 8, 11 and 31 and February 7, 2007 were submitted. None of the reports included a diagnosis but listed "medical reason" or "medical visit" in the space provided for the diagnosis. In a January 11, 2007 report, Dr. Joaquin F. Tinio diagnosed strain of the lumbar region, shoulder and neck.

A January 6, 2007 statement from Floyd Gilbert, Sr., noted that he was traveling on north Moreland/Ludlow when a postal truck turned or pulled into his path at the intersection.

On June 11, 2007 the Office denied appellant's claim on the grounds that the evidence did not describe how the injury occurred or establish that appellant sustained an injury.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.[2]

In order to determine whether an employee sustained a traumatic 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 that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred.[3] The second component is whether the employment incident caused a personal injury.[4] Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.[5]

[1] 5 U.S.C. §§ 8101-8193.

[2] *See generally John J. Carlone*, 41 ECAB 354 (1989); 20 C.F.R. § 10.5 (ee).

[3] *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

[5] *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of causal relationship must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id.*

ANALYSIS

The Board finds that appellant has failed to establish that he sustained a traumatic injury in the performance of duty.

Appellant has not established a *prima facie* claim because he did not sufficiently describe the place and manner in which the alleged incident occurred. On his claim form, appellant simply stated that at 1:00 p.m. "carrier was making a left hand turn." This statement is not sufficiently detailed to allow the Office to determine whether an injury occurred in the manner described. Appellant did not explain whether the left hand turn was abrupt, whether there was a forcible stop or whether there was a motor vehicle collision involved. Therefore the nature of the external stress has not been identified. Pursuant to the applicable regulation: "*Traumatic injury* means a condition of the body caused by a specific event or incident or series of events or incidents, with a single workday or shifts. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."[6] On May 4, 2007 the Office advised appellant that it required additional information as to what happened on January 6, 2007 while he was making a left hand turn. Appellant offered no further explanation. The only other evidence received was a statement from Mr. Gilbert who noted that he was traveling on a street when a postal truck pulled into his path at an intersection. This statement also lacks specifics and does not establish that an incident occurred. It is still not clear what the incident was or that appellant was involved.

Appellant has not established a *prima facie* claim for compensation.[7] The Board finds that appellant has failed to meet his burden to demonstrate that he sustained an employment-related injury on January 6, 2007.

CONCLUSION

The Board finds that appellant has not met his burden to establish that he sustained a traumatic injury in the performance of duty.

[6] 20 C.F.R. § 10.5(ee).

[7] *See Donald W. Wenzel*, 56 ECAB 390 (2005); *Richard A. Weiss*, 47 ECAB 182 (1995).

ORDER

IT IS HEREBY ORDERED THAT the June 11, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 6, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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