

On November 7, 2005 appellant, then a 53-year-old program analyst, filed a traumatic injury claim alleging that on October 31, 2005 she sustained a heart condition when she was trapped in an elevator at work for approximately 50 minutes. She indicated that the elevator stopped at the 6<sup>th</sup> floor and a coworker exited. The elevator then rose very fast to the 41<sup>st</sup> floor



but the door did not open. It then descended very fast. Appellant pushed the alarm button and the elevator went up and down again. She began to hyperventilate and her asthma condition was elevated. An incident report indicates that at 11:38 a.m. building management received a report that the elevator was stuck. At 11:50 a.m. a nurse contacted appellant via the elevator telephone. The fire department was notified at 12:02 p.m. and arrived at 12:07 p.m. The firemen removed appellant under her own power by lowering a ladder into the elevator through the top hatch. Appellant remained at the building until 1:25 p.m. when she was transported to a hospital by ambulance.<sup>1</sup>

On November 30, 2005 the Office asked appellant to submit additional evidence within 30 days, including a medical report containing a history and diagnosis of her condition and medical rationale explaining how the condition was causally related to the October 31, 2005 incident.

On December 13, 2005 Dr. Jeffrey B. Duskow, a Board-certified internist and cardiologist, stated that appellant had a stress test that was positive for chest pain and a hypertensive response to exercise. The stress was also positive for inferoseptal ischemia which could be consistent with coronary artery disease. In a December 20, 2005 disability certificate, Dr. Duskow diagnosed hypertension, chest pain and an abnormal nuclear study.

By decision dated January 9, 2006, the Office denied appellant's claim on the grounds that the medical evidence did not establish that she sustained an employment-related injury on October 31, 2005 when she was trapped in an elevator.

Appellant requested reconsideration and submitted additional evidence. The fire department report stated that she was stuck in an elevator for approximately 45 minutes and was hysterical and crying. Appellant was extracted from the elevator but there was a delay in transporting her to the hospital. The reports states, "[Her] care extended due to calming [her] [and] traveling companion....<sup>2</sup> [Appellant] was extremely agitated and did not want to move. [Her medical history continued]: PTSD [post-traumatic stress disorder] since 9/ 11." The hospital emergency room record, much of which is illegible, indicated that appellant reported being stuck in the elevator alone for about 45 minutes. After testing, which included an

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<sup>1</sup> This is the second appeal in this case. See Docket No. 06-1362 (issued October 27, 2006). By order dated October 27, 2006, the Board dismissed the appeal at appellant's request so that she could submit additional evidence to the Office.

<sup>2</sup> In its November 27, 2007 decision, the Office interpreted the mention of a "traveling companion" in the fire department report as showing that someone else was in the elevator with appellant which conflicted with a history in a medical report from Dr. Scott Sigmon that she was alone. However, there is no evidence of record that someone else was trapped with appellant in the elevator. The fire department indicated that only appellant was extracted from the elevator. The reference to a "traveling companion" could have other interpretations such as this individual being a coworker who was going to accompany appellant in the ambulance to the hospital. In fact, in appellant's initial statement, she indicated that a coworker had just exited the elevator before it began malfunctioning. In its November 27, 2007 decision, the Office also found that a note in the fire department report that "Bystanders [state] [patient] was stuck in elevator for ½ hour" conflicted with the history in Dr. Sigmon's medical report that she was trapped for about 40 minutes. However, there is no evidence that the time estimate of bystanders is more accurate than appellant's accounting of the events. The comments in the November 27, 2007 decision about the fire department report are not sufficient to establish an inaccurate history in Dr. Sigmon's report.



electrocardiogram (ECG), appellant reported feeling much better but still had a little chest pressure. The ECG test was reported as abnormal but with an “unconfirmed diagnosis.” The diagnosis was chest pain and anxiety. Appellant declined to stay at the hospital, indicating that she preferred a hospital near her home.

In a December 20, 2005 report, Dr. Duskow stated that a nuclear stress performed on December 13, 2005 due to her chest pain revealed the possibility of apical wall myocardial ischemia. Appellant was experiencing chest pain on December 20, 2005 but her blood pressure was good. Dr. Duskow diagnosed hypertension, a history of anxiety secondary to the events of September 11, 2001, a recent entrapment in an elevator for more than one hour and a borderline positive nuclear scan. Disability certificates from Dr. Duskow indicated that appellant was totally disabled from January 4 to February 5, 2006 due to hypertension, an abnormal nuclear study and status post a cardiac catheterization with complications. In a January 10, 2006 report, he stated that appellant’s catheterization revealed no evidence of significant epicardial disease.

By decision dated May 5, 2006, the Office denied appellant’s request for reconsideration on the grounds that the evidence was not sufficient to warrant further merit review.

Appellant requested reconsideration and submitted additional evidence.

In a narrative report dated February 14, 2006 and a June 6, 2006 addendum, Dr. Scott B. Sigmon, a licensed clinical psychologist, stated that he had treated appellant for PTSD caused by being near the World Trade Center building on September 11, 2001. An assistant pastor at her church died in that attack. Dr. Sigmon stated that appellant was recovering well psychologically from the September 11, 2001 trauma until she had a significant setback on October 31, 2005 when she was stuck for approximately 40 minutes in an elevator by herself at work. Firemen released her from the elevator by breaking through a wall shaft and taking her via a ladder to a hole in the wall that they created. Appellant was taken by ambulance to a nearby hospital and was subsequently treated “for cardiac problems and hypertension (for the first time) by a cardiologist and is on medicines for same.” Dr. Sigmon stated that she had evidenced elevated levels of stress, anxiety, depression and sleep problems on visits to him since October 31, 2005. On June 6, 2006 he indicated that she would be psychologically disabled for at least six more months.

In reports dated February 28 and June 13, 2006, Dr. David Corwin, a Board-certified psychiatrist, stated that appellant had been under his care since November 2002 for depression, PTSD and an anxiety disorder caused by the September 11, 2001 attack on the World Trade Center which was located adjacent to her building. On October 31, 2005 appellant was trapped in an elevator that fell several floors causing an intense panic response and extremely elevated hypertension. She had an exacerbation of her depression and panic symptoms and was unable to work for 10 weeks. Appellant was being treated monthly with psychotherapy and medication with a fair prognosis. Dr. Corwin stated that, “The extent of disability with respect to her work is that she has periods of intense anxiety and depression during which she cannot work.”

In a June 29, 2006 report, Dr. Richard J. Solomon, an internist, diagnosed iron deficiency anemia, hypertension, hypercholesterolemia (excessive cholesterol in the blood), Type II diabetes, back pain, chest pain and anxiety (panic disorder) and depression. He indicated that



appellant's chest pain was precipitated by the October 31, 2005 incident when she was stuck in the elevator. Appellant's anxiety and depression were severely exacerbated by witnessing the events of the September 11, 2001 World Trade Center attack and being trapped in an elevator. She was taking multiple medications and receiving psychotherapy.

Appellant requested reconsideration. She described the October 31, 2005 elevator incident and the history of her compensation claim.

By decision dated November 27, 2007, the Office denied modification of the January 9, 2006 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden to establish the essential elements of 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, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.<sup>5</sup> Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.<sup>6</sup> An employee may establish that the employment incident occurred as alleged but fail to show that her disability or condition relates to the employment incident.

To establish a causal relationship between a claimant's condition and any attendant disability claimed and the employment event or incident, she must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's 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.<sup>7</sup>

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

<sup>6</sup> *Shirley A. Temple*, 48 ECAB 404 (1997).

<sup>7</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *id.*



## ANALYSIS

The Office accepted that appellant actually experienced the claimed incident on October 31, 2005, but found that the medical evidence did not establish that she sustained an injury causally related to the incident.

Dr. Sigmon stated that he had treated appellant for PTSD caused by working in a building close to the World Trade Center building on September 11, 2001. He stated that appellant was recovering well psychologically from the September 11, 2001 trauma until she had a significant setback on October 31, 2005 when she was stuck for approximately 40 minutes alone in an elevator at work. Firemen released her from the elevator by breaking through a wall shaft and taking her via a ladder to the hole in the wall that they created. Appellant was taken by ambulance to a nearby hospital and was subsequently treated for cardiac problems and hypertension by a cardiologist.<sup>8</sup> Dr. Sigmon stated that she had elevated levels of stress, anxiety, depression and sleep problems on visits to him since October 31, 2005. On June 6, 2006 he indicated that she would be psychologically disabled for at least six more months. Dr. Sigmon stated that appellant had a significant setback, related to her preexisting PTSD sustained on September 11, 2001, when she was trapped in the elevator on October 31, 2005. He did not, however, make a specific diagnosis concerning the October 31, 2005 employment incident.

Dr. Corwin stated that appellant had been under his care since November 2002 for depression, PTSD and an anxiety disorder caused by the September 11, 2001 attack on the World Trade Center which was located adjacent to her building. On October 31, 2005 appellant was trapped in an elevator that fell several floors causing an intense panic response and extremely elevated hypertension. She had an exacerbation of her depression and panic symptoms and was unable to work for 10 weeks. Dr. Corwin stated that appellant experienced periods of intense anxiety and depression during which she could not work. But, did not provide sufficient medical rationale explaining the causal relationship between her conditions and the October 31, 2005 employment incident.

Dr. Solomon indicated that appellant had chest pain that was precipitated by the October 31, 2005 incident when she was stuck in the elevator. He stated that her anxiety and depression were severely exacerbated by witnessing the events of the September 11, 2001 World Trade Center attack and being trapped in an elevator. Appellant was taking multiple medications and receiving psychotherapy. Dr. Solomon did not provide a specific cardiac diagnosis for her chest pain. Additionally, he did not provide sufficient medical rationale explaining the causal relationship between the October 31, 2005 employment incident and appellant's preexisting anxiety and depression.

While several physicians suggest the possibility that appellant suffered an injury on October 31, 2005, a medical possibility does not meet appellant's burden of proof. Appellant has not proved her claim.

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<sup>8</sup> As noted, Dr. Daskow diagnosed hypertension, a history of anxiety secondary to the events of September 11, 2001, a borderline positive nuclear scan and he noted appellant's October 31, 2005 entrapment in an elevator. His disability certificates indicated that she was totally disabled from January 4 to February 5, 2006 due to hypertension, an abnormal nuclear study and status post a cardiac catheterization with complications.



**CONCLUSION**

The Board finds that appellant did not establish that she sustained an employment-related traumatic injury. The medical evidence is insufficient.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 27, 2007 is affirmed.

Issued: October 6, 2008  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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