

On August 13, 2007 appellant, then 45 years old, filed a claim for compensation alleging that he caught a virus while working as a nursing assistant. He claimed that on March 19, 2003, after working his shift on the floor, he felt ill and vomited after walking out to his car. Appellant

claimed that he was admitted to the hospital through April 2003 and tests showed a virus was present. He returned to light duty on May 12, 2003.¹

In a September 5, 2007 letter, the Office notified appellant that he was required to submit additional medical and factual evidence, including a comprehensive medical report from his treating physician discussing the cause of the condition and containing a firm diagnosis. Appellant did not submit any additional evidence.

By decision dated October 12, 2007, the Office accepted that the event occurred as alleged, however, it denied the claim on the grounds that appellant did not provide any medical evidence with a diagnosis which could be connected to the event.

LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence,³ including that he is an "employee" within the meaning of the Act⁴ and that he filed his claim within the applicable time limitation.⁵ The employee must also establish that he sustained an injury in the performance of duty as alleged and that his disability for work, if any, was causally related to the employment injury.⁶ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁷

ANALYSIS

Appellant submitted an occupational disease claim alleging that on March 19, 2003 he felt ill and vomited after working second shift of the floor. The Office denied the claim in an October 12, 2007 decision, finding that he did not submit any supporting medical evidence.

The Board has carefully reviewed the record and finds that there is no medical evidence of record to support appellant's claim. In order to meet his burden of proof, appellant must establish with the weight of medical evidence a firm diagnosis of the condition claimed and the

¹ In his appeal, appellant noted that he was unable to work. It is unclear from the record when he stopped working.

² 5 U.S.C. §§ 8101-8193.

³ *J.P.*, 59 ECAB ____ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

⁴ *See M.H.*, 59 ECAB ____ (Docket No. 08-120, issued April 17, 2008); *Emiliana de Guzman (Mother of Elpedio Mercado)*, 4 ECAB 357, 359 (1951); *See* 5 U.S.C. § 8101(1).

⁵ *R.C.*, 59 ECAB ____ (Docket No. 07-1731, issued April 7, 2008); *Kathryn A. O'Donnell*, 7 ECAB 227, 231 (1954); *see* 5 U.S.C. § 8122.

⁶ *G.T.*, 59 ECAB ____ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ *Delores C. Ellyett*, 41 ECAB 922 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

causal relationship between that condition and the factors of his federal employment.⁸ The Office advised him of this requirement in a September 5, 2007 letter; however, appellant failed to submit any additional evidence. Therefore, the Board finds that it properly denied the claim.

CONCLUSION

The Board finds that appellant did not establish that he sustained an injury in the performance of duty causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the October 12, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 17, 2009
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

⁸ See *Roy L. Humphrey*, 57 ECAB 238 (2005); see *Naomi A. Lilly*, 10 ECAB 560, 574 (1959).