U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANGELA MITCHELL and DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Lexington, Ky.

Docket No. 96-1118; Submitted on the Record;
Issued March 23, 1998

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty on December 4, 1994.

On December 6, 1994 appellant, then a 30-year-old nursing assistant, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that on December 4, 1994 she sustained an employment-related injury to her left hand while attending a patient in 25-1 on Team I. Appellant stated that she was "lifting and pulling on all Team I patients during the 3:00[a.m.] bed check and changing of attend[s] I noticed my back and hand hurting and this continued through the rest of the shift, my back stop[ped hurting] Sunday night/hand didn't."[1] The record reveals that appellant stopped work on December 7, 1994, had surgery on December 19, 1994, was off work for six to eight weeks due to this surgery, and was placed on light duty with no pulling or lifting with the left hand.

The employing establishment has controverted appellant's claim to the extent that a physician's signature does not appear on a statement, and that the medical evidence submitted does not support a causal relationship between appellant's condition with any workplace factors.

Appellant submitted disability slips from Dr. Daniel D. Primm, Jr., a Board-certified orthopedic surgeon dated December 6 and 13, 1994, which indicated that appellant had been under his care since December 6 1994 and was placed on light duty with no pulling or lifting with the left hand. These disability slips also indicated that appellant was to have surgery on

[1] On November 5, 1995 appellant filed a second Form CA-1, regarding the identical December 4, 1994 incident. In this form, however, appellant presented the history of injury as "I was changing a pt [patient's] attends and he came down on my hands and arms pinning me under him, he turn[ed] on me several times," hurting my left hand. The Board notes that this statement differs from the prior statement indicated on appellant's CA-1 form filed December 6, 1994.

December 19, 1994 and would be off work for an additional six to eight weeks after the operation unless the employment establishment agreed to a light-duty assignment.

By letter dated December 28, 1994, the Office of Workers' Compensation Programs advised appellant that the medical evidence submitted was insufficient to establish her claim and requested that she describe exactly how the injury occurred, present names and addresses of any persons who witnessed the injury, or had immediate knowledge of it, the effect of the injury, and what she did immediately thereafter. The Office also attached a CA-20 form and specifically advised appellant to submit a medical report on the form from the physician who examined her as a result of the alleged injury.

Appellant responded by correspondence dated January 5, 1995, and forwarded to the Office the CA-20 form signed by Dr. Primm, dated January 9, 1995, progress notes dated December 6, 13, 19 and 20, 1994 and a unsigned, but dictated operative medical report of the surgery performed by Dr. Primm on December 19, 1994.

In the CA-20 form, Dr. Primm noted the history of appellant's injury as patient stated approximately [a] month ago [her] work load increased and now [she is] doing more pushing and pulling; fell while changing bed and pulled/jerked hand." He also noted that appellant had a preexisting injury, that on "March 16, 1993 [appellant] visited [his office]: Patient fell landing on L[left] hand. Tender nodule over volar aspect R[right] index finger-excision of cyst 3/9." Dr. Primm, went on to diagnose appellant with "temporary physical impairment" and checked a "yes" box indicating that he believed the condition found was caused or aggravated by an employment activity. He noted a "very locally tender over previous surgical scar & A1 pulley with palpable popping with ROM when flex & then extend finger. (Pushes and pulls patients)." Dr. Primm, stated that he treated appellant with synovectomy, excision of scar tissue and noted that appellant's discharge from medical treatment was to be determined.

Similarly, Dr. Primm's progress note dated December 6, 1994 presented the history of appellant's injury as "[Appellant] was doing well until approximately one month ago. At that time she indicates her work load at the [employing establishment] increased a bit and she was doing quite a bit of pushing and pulling, assisting patients. She began to note recurrence of pain, as well as a catching sensation, in the left ring finger. Pt [Patient] fell while she was changing bed -- pulled/jerked hand." Further, the remaining progress notes of Dr. Primm, basically reiterated the statements made by him in his CA-20 form.

In addition, the unsigned, but dictated operative medical report of the December 19, 1994 surgery performed by Dr. Primm, diagnosed appellant's pre and postoperative condition as tenosynovitis of left ring finger with recurrent triggering, noted the exploration with trigger finger release and synovectomy, and merely explained the procedures taken during this surgery.

In a decision dated February 13, 1995, the Office rejected appellant's claim on the grounds that the evidence of record failed to demonstrate that the appellant sustained an injury as alleged. In an accompanying memorandum, the Office stated "that medical evidence of record indicated three distinct histories of injury as well as a previously left trigger finger condition and while Dr. Primm has indicated in Item 8 of the CA-20 form that the "condition found" was "caused or aggravated by factors of employment" citing "pushes and pulls patients," no medical

rationale is given and Dr. Primm does not comment on the relation of appellant's preexisting condition.

By letter dated February 21, 1995, appellant requested review of the written record by a hearing representative. Appellant forwarded to the Office an additional progress note from Dr. Primm dated February 28, 1995, several other disability slips dated February 28, March 28, April 7 and 11, 1995 indicating continued light-duty work with no lifting or pulling with the left hand, along with a duplicated copy of the above mentioned CA-20 form. In the February 28, 1995 progress note, Dr. Primm stated:

> "According to [appellant's] history this [trigger finger condition] did begin at work when her work load increased and she was having to do more work with her hands. This is not an uncommon occurrence, particularly in women who seem to be more predisposed to this condition. I think her work definitely was a factor which aggravated or aroused this condition. In addition, she related today that she had told me about a blunt injury to the hand which occurred once at work. I have to assume that this is accurate also, and that also would have been a factor. I want to see her back in one month. I want her to continue on light duty with no heavy lifting with that hand at this time."

In a decision of the written record dated June 30, 1995, the Office hearing representative found that appellant had failed to provide any medical evidence supporting an injury sustained in the performance of duty on December 4, 1994, and affirmed the Office's February 13, 1995 decision. The hearing representative also noted that Dr. Primm's reports indicated a completely different history of injury than that given by the claimant; that claimant suffered some type of injury to her hand in the past; that no firm diagnosis on claimant's problem was provided although a synovectomy was necessary to correct it; and that no rationalized medical evidence to support that claimant's problem resulting from the surgery could have been caused by factors of her employment over an extended period of time, or by any specific traumatic incident.

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty on December 4, 1994.

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing that 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, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

[2] 5 U.S.C. §§ 8101-8193.

[3] *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *David J. Overfield*, 42 ECAB 718 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

In order to determine whether a federal employee has sustained an 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 which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[5]

The second component of fact of injury is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event, incident or exposure, the employee must submit rationalized medical opinion, based on a complete factual and medical background, supporting such a causal relationship.[6]

In the instant case, it is not disputed that appellant's job required her to lift and pull while checking beds and changing the attends of patients in 25-1 Team I, during the performance of her duties. Consequently, the Office found that the claimed event, incident or exposure occurred at the time, place and in the manner alleged. However, the Office found that the medical evidence submitted was insufficient to establish that the December 4, 1994 incident resulted in an injury, causally related to any specific workplace factors. Appellant's own statements concerning her left hand condition is irrelevant to the main issue of the present case, *i.e.*, whether appellant has submitted sufficient medical evidence to support her claim that she sustained an injury as a result of the December 4, 1994, incident. Appellant was advised of the deficiency in her claim on December 28, 1994 and afforded the opportunity to provide supportive evidence, however, sufficient medical evidence addressing whether any medical condition arose out of the December 4, 1994 incident has not been submitted.

Additionally, Dr. Primm submitted a CA-20 form, an operative medical report, and several disability certificates and progress notes which do not demonstrate an awareness of appellant's December 4, 1994 employment incident or give a clear diagnosis or opinion, dates, a history of appellant's preexisting condition and/or incident, or even, base his medical opinion on an accurate history of injury; therefore of the above mentioned medical documentation submitted, Dr. Primm's is of diminished probative value. Dr. Primm, did not provide a rationalized medical opinion, based upon reasonable medical certainty, that there was a causal connection between appellant's left hand condition and specific workplace factors. For example, Dr. Primm, did not explain how or why the lifting and pulling while checking beds and changing the attends of patients in 25-1 Team I, for the employing establishment caused or contributed to the presence or occurrence of a specific medical condition.[7] Therefore, these documents are insufficient to establish appellant's claim for benefits.

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[5] *Elaine Pendleton, supra* note 3.

[6] *Kathryn Haggerty*, 45 ECAB 383 (1994).

[7] *Charles H. Tomasezewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship); *see also George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

The decisions of the Office of Workers' Compensation Programs dated June 30 and February 13, 1995 are affirmed.

Dated, Washington, D.C.
March 23, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member