U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TIMMY T. REYNOLDS and DEPARTMENT OF THE ARMY, ARMY AVIATION SUPPORT FACILITY, KANSAS ARMY NATIONAL GUARD, Topeka, Kans.

Docket No. 97-1583; Submitted on the Record;
Issued April 14, 1999

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS, A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability after February 8, 1995 causally related to his employment injuries of June 18, 1982 and May 30, 1984.

On June 18, 1982 appellant, then a 45-year-old aircraft mechanic, slipped while working in a chin bubble on a helicopter. He caught himself with his lower body and developed low back pain. The Office of Workers' Compensation Programs accepted appellant's claim for lumbar strain. On January 26, 1983 appellant slipped on ice and strained his lower back. On August 30, 1983 appellant was sitting at a desk trying to pull out a desk drawer when he developed pain in his neck and low back. On May 30, 1984 appellant was moving a helicopter engine air particle separator from a holding rack when he felt his back pop and his legs collapsed. After the last injury, appellant received continuation of pay from June 2 through July 14, 1984. The Office began payment of temporary total disability compensation effective July 17, 1984.

In a September 3, 1993 letter, the employing establishment offered appellant a position as a military personnel clerk. Appellant initially declined the position but accepted the position and began work six hours a day on January 7, 1994. The Office subsequently reduced appellant's compensation to show that he had a 37 percent loss of wage-earning capacity based on his actual earnings.

Appellant filed a claim for recurrence of disability effective February 11, 1994. He stated that while the position he accepted was for six hours a day, he was only able to work two to four hours a day. He indicated that most of the discomfort would occur after two to three hours but he could not perform his duties after taking the pain medication. He therefore would not take the pain medication but would just endure the pain. Appellant subsequently worked four hours a day and sought compensation for the additional two hours a day he did not work and for which he did not receive compensation. In an August 1, 1994 decision, the Office denied

appellant's claim for a recurrence of disability in the form of reduced work hours on the grounds that the evidence of record failed to demonstrate a causal relationship between the employment injuries and the claimed recurrence of disability.

On March 16, 1995 appellant filed a claim for recurrence of disability effective February 8, 1995. Appellant's supervisor related that he did not witness the incident but appellant told him that he was attempting to stand up from his chair and blacked out, landing on the floor in pain. Appellant stopped working that day and returned to work on February 21, 1995. One witness stated in a February 8, 1995 statement that appellant stopped in front of her desk at 9:30 that morning looking happy. She noted that appellant's face was red. The witness told appellant that he seemed to be in better spirits. She reported that appellant indicated that he was in better spirits, noting that he had taken "a lot of pain medication" the night before, had gone to bed at 7:00 p.m. and slept all night. In a March 15, 1995 statement a second witness stated that she was working at the copying machine when, out of the corner of her eye, she saw appellant start to fall out of his chair. When she turned to face him, he hit the floor and moaned in pain. He indicated that he had trouble in his leg. He then tried to roll over which caused more pain. The witness asked someone to call a nurse from the employing establishment.

In a December 7, 1995 decision, the Office denied appellant's claim on the grounds that the evidence of record failed to demonstrate a causal relationship between the injury and the claimed disability. In an accompanying memorandum, the employing establishment indicated that appellant had a history of diabetes and had medical records showing poor control of his diabetes. The Office indicated that a fall due to a personal condition such as diabetes would be considered an idiopathic fall.

Appellant requested a hearing before an Office hearing representative which was conducted on September 24, 1996. In a December 26, 1996 decision, the hearing representative found that appellant had not established a causal relationship between the May 30, 1984 employment injury and the claimed recurrence of disability beginning February 8, 1995. He concluded that appellant's fall on February 8, 1995 was an idiopathic fall due to his diabetes. He therefore affirmed the Office's December 7, 1995 decision.

The Board finds that appellant has not met his burden of proof in establishing that his disability after February 8, 1995 was causally related to his prior employment injuries.

The Office hearing representative denied appellant's claim on the grounds that his fall on February 8, 1995 was an idiopathic fall. It is a well-settled principle of workers' compensation law, and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface and there is no intervention or contribution by any hazard or special condition of employment -- is not within the coverage of the Federal Employees' Compensation Act. Such injury does not arise out of a risk connected with the employment and it, therefore, is not compensable. However, as the Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained, or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition. This follows from the general rule that an injury occurring on the industrial premises during working

hours is compensable unless the injury is established to be within an exception to such general rule.[1]

The Board has held that if the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely established that a physical condition preexisted the fall and caused the fall.[2]

The Office noted that an October 25, 1994 progress note indicated that appellant had no tests at that time because he had a diabetic diagnosis and had not eaten lunch. He was instructed to eat and was given juice. In a February 8, 1995 emergency room report gave a history of a sudden onset of severe back pain while getting up from his chair. His blood sugar was measured at 141 mg/dL. He was released from the emergency room that day with a diagnosis of acute lumbosacral strain but was hospitalized on February 13, 1995 due to severe back pain.

For the Office to find that appellant had an idiopathic fall, there must be rationalized medical evidence clearly establishing that the fall experienced at work was due to a personal condition that was unrelated to the claimant's employment. There is no such evidence in this case. The emergency room report and the reports of Dr. Toth noted that appellant had diabetes. But all the reports attribute appellant's fall on February 8, 1995 to severe back pain. There is no medical evidence of record that states or even hints that appellant's fall on February 8, 1995 was due to his diabetes. Therefore, there is absolutely no evidence to support any finding that the fall on February 8, 1995 was idiopathic in nature. The fall must therefore be considered an unexplained fall that occurred within the performance of duty.

In a February 14, 1995 report, Dr. John Toth, a Board-certified family practitioner, gave a history of appellant, three to four days prior to admission, falling at work for an unknown reason with acute weakness in the left leg and exquisite tenderness in the low back which caused difficulty in walking. He related that after appellant was discharged from the emergency room, he spent three days in bed rest but felt the pain was getting worse. Dr. Toth noted that appellant had diabetes. He indicated that appellant had been diagnosed with two herniated lumbar discs in 1984 by myelogram and a computerized tomography (CT) scan although a 1983 myelogram revealed a lumbosacral bulge. He concluded that appellant had severe low back pain with radiculopathy secondary to possible herniated disc as well as lumbosacral ileitis. In a February 24, 1995 discharge summary Dr. Toth indicated that a medical consultant indicated that appellant had severe back pain and leg pain without neurological signs. He reported that appellant's blood sugars ranged from 120 to 291 mg/dL with a peak of 315 mg/dL. Dr. Toth concluded that appellant had a significant component of sacroiliitis as well as a herniated disc which was causing radiculopathy. He indicated that appellant was encouraged to get his diabetes under control and become more attentive to his diabetic condition.

[1] *Judy Bryant*, 40 ECAB 207 (1988); *Fay Leiter (Simon Zuckerman)*, 35 ECAB 176 (1983).

[2] *See Martha G. List*, 26 ECAB 200 (1974).

Even though appellant's fall on February 8, 1995 occurred within the performance of duty, appellant has not established that the fall was causally related to his prior employment injuries, as a recurrence or a consequential injury. A person who claims benefits under the Act[3] has the burden of establishing the essential elements of his claim. Appellant has the burden of establishing by reliable, probative, and substantial evidence that his medical condition was causally related to a specific employment incident or to specific conditions of employment.[4] As part of such burden of proof, rationalized medical opinion evidence showing causal relation must be submitted.[5] The mere fact that a condition manifests itself or worsens during a period of employment does not raise an inference of causal relationship between the condition and the employment.[6] Such a relationship must be shown by rationalized medical evidence of causal relation based upon a specific and accurate history of employment incidents or conditions which are alleged to have caused or exacerbated a disability.[7]

As noted above, Dr. Toth concluded that appellant's back condition after February 8, 1995 was due to pain arising from a herniated lumbar disc. He noted that appellant had previous employment injuries and had been diagnosed with a herniated disc. However, Dr. Toth did not specifically relate appellant's back pain or his diagnosis of a herniated lumbar disc to the employment injuries. The Office has not accepted that appellant had a herniated lumbar disc due to the employment injuries. The case record contains differing test result interpretations on whether appellant has a herniated disc. In a July 30, 1982 report Dr. Joseph Shaw, a Board-certified orthopedic surgeon, stated a CT scan showed a bulging L4-5 disc, more on the left than the right, and diagnosed a herniated nucleus pulposus. In a July 17, 1982 report, Dr. Vernon J. Peterson, a Board-certified radiologist, stated that the CT scan showed mild bulging at L4-5 and concluded that it was unlikely that any of the actual disc herniation was present. In a July 6, 1993 report, Dr. Gordon Randall, a Board-certified radiologist, stated that a lumbar myelogram showed an extradural defect at L4-5 which was consistent with at least a bulging annulus of a lumbar disc with the slight prominence on the right side suggesting a herniated disc. In a July 9, 1984 report, Dr. Craig Yorke, a Board-certified neurosurgeon, stated that he was never able to document objective neurological deficit or other objective problems in appellant. In an August 8, 1984 report, Dr. Jerry Gage, an osteopath, and Dr. Frederick Sachen, a Board-certified neurologist, reported that appellant had a normal EMG (electromyogram) of the legs and paraspinous muscles. In an April 30, 1990 report, Dr. Ernest Neighbor, a Board-certified orthopedic surgeon, diagnosed disc herniation at L4-5 with spinal stenosis and lateral recessed stenosis based on the 1984 CT scan and myelogram. In a September 28, 1990 report, Dr. Joseph Gendel, a Board-certified orthopedic surgeon, diagnosed a L4-5 disc protrusion with no evidence of nerve root compression. An April 27, 1992 magnetic resonance imaging (MRI) scan showed a bulging L4-5 annulus fibrosis with no evidence of disc herniation. The medical evidence of

[3] 5 U.S.C. §§ 8101-8193.

[4] *Margaret A. Donnelly*, 15 ECAB 40, 43 (1963).

[5] *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

[6] *Juanita Rogers*, 34 ECAB 544, 546 (1983).

[7] *Edgar L. Colley*, 34 ECAB 1691, 1696 (1983).

record therefore does not definitively establish that appellant has a herniated lumbar disc or that any such herniated disc is causally related to appellant's employment injuries. Dr. Toth's reports therefore do not establish that appellant's disability after February 8, 1995 was causally related to his original employment injuries either as a recurrence or a consequential injury.

The decision of the Office of Workers' Compensation Programs, dated December 26, 1996, is hereby modified to find that there was no idiopathic condition established as causing the February 8, 1995 incident, and affirmed as modified.

Dated, Washington, D.C.
April 14, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member