

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RAYMOND R. RIGGS and DEPARTMENT OF THE ARMY,
MOBILE DISTRICT CORPS OF ENGINEERS, Mobile, Ala.

*Docket No. 97-1577; Submitted on the Record;
Issued January 12, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden of proof to establish that he sustained an injury while in the performance of duty on July 30, 1996.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to meet his burden of proof to establish that he sustained an injury while in the performance of duty on July 30, 1996.

On July 30, 1996 appellant, then a maintenance worker, filed a traumatic injury claim (Form CA-1) alleging that on that date he pulled a muscle in the groin area while removing a toilet in a stall. Appellant stopped work on July 31, 1996. Appellant's claim was accompanied by medical evidence.

By letter dated December 17, 1996, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish his claim. The Office advised appellant to submit medical evidence supportive of his claim.

By decision dated January 29, 1997, the Office found the evidence of record insufficient to establish fact of injury. In an accompanying memorandum, the Office found the evidence of record sufficient to establish that the claimed event, incident or exposure occurred at the time, place and in the manner alleged. The Office, however, found the evidence of record insufficient to establish that appellant sustained a medical condition caused by the employment incident.

In a February 13, 1997 letter, appellant requested reconsideration of the Office's decision accompanied by medical evidence.

By decision dated March 13, 1997, the Office denied appellant's request for reconsideration without a review of the merits on the grounds that the evidence submitted was of an immaterial nature, and thus insufficient to warrant review of its prior decision. In an

accompanying memorandum, the Office found that appellant failed to submit medical evidence supportive of his claim.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing 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 limitations 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.² 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.³

In order to determine whether an employee actually 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.⁴ In this case, the Office accepted that the incident occurred at the time, place and in the manner alleged. The Board finds that the evidence of record supports this incident.

The second component 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 or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁵ In the instant case, appellant has submitted no rationalized medical evidence establishing that he sustained a medical condition causally related to the July 30, 1996 employment incident.

In support of his claim, appellant submitted a January 17, 1990 medical report of Dr. Donald F. Pringle, a general practitioner, regarding his regular physical checkup. In this report, Dr. Pringle indicated appellant's medical history. In further support of his claim, appellant submitted Dr. Pringle's medical treatment notes of the same date revealing his findings on physical examination. Dr. Pringle's report and treatment notes failed to address whether appellant sustained an injury caused by the July 30, 1996 employment incident.

Appellant also submitted objective test results covering the period January 18 to 19, 1990. These results failed to indicate that appellant sustained a medical condition caused by the July 30, 1996 employment incident.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718 (1991).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ 20 C.F.R. § 10.110(a); *see John M. Tornello*, 35 ECAB 234 (1983).

In addition, appellant submitted the July 31, 1996 medical treatment notes of Dr. Francis E. Harman, Jr., a family practitioner, indicating a history of the July 30, 1996 employment incident and that appellant had a right inguinal hernia. These treatment notes, however, failed to address whether appellant's condition was caused by the July 30, 1996 employment incident.

Appellant submitted the December 26, 1996 medical report of Dr. Richard M. Vise, a Board-certified urologist, providing that appellant recently required a hernia repair and that the hernia appeared to have developed while appellant was at work. Dr. Vise stated that he had been treating appellant for bladder cancer and conducted examinations of appellant on January 11, 1993 and May 20, 1994. Dr. Vise further opined that there was no mention of an inguinal hernia in either examination, and thus stated that he believed that appellant did not have a hernia as recently as May 20, 1994. Dr. Vise then stated that other clinic notes since 1994 did not mention an inguinal hernia. Dr. Vise concluded that he would have to assume that this hernia was not preexisting since he had not been able to find any reference to the hernia. The Board has held that an opinion of a physician that a condition is causally related to an employment injury because the employee was asymptomatic before the employment injury is insufficient, without supporting medical rationale, to establish causal relation.⁶ Dr. Vise failed to provide any medical rationale explaining how or why appellant's hernia was caused by his employment.

Inasmuch as appellant has failed to submit medical evidence establishing that he sustained an injury while in the performance of duty on July 30, 1996, the Board finds that he has failed to meet his burden of proof.

⁶ *Thomas D. Petrylak*, 39 ECAB 276 (1987).

The March 13 and January 29, 1997 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, D.C.
January 12, 1999

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member