U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEPHEN E. WATTS and U.S. POSTAL SERVICE,
POST OFFICE, Carrollton, Tex.

Docket No. 97-1923; Submitted on the Record;
Issued March 11, 1999

DECISION and ORDER

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

The issue is whether appellant sustained an injury in the performance of duty on or after November 18, 1996.

On November 30, 1996 appellant, then a 37-year-old distribution clerk, filed a notice of traumatic injury alleging that on November 18, 1996 carbon monoxide fumes caused headaches and stomach problems in the course of his federal employment. Appellant did not stop working.

On November 30, 1996 Dr. Nathaniel T. Watts, Jr., a Board-certified surgeon, stated on a disability slip that appellant was totally incapacitated from November 18 through 30, 1996. Dr. Watts indicated that he treated appellant for headaches and abdominal cramping and that appellant could return to work without restrictions on December 2, 1996.

On December 6, 1996 Dr. Watts diagnosed abdominal cramping and headaches in a Form CA-17 duty status report. He also checked "yes" to indicate that the diagnosed conditions were due to acute exposure to fumes.

Dr. Watts also indicated on a separate disability slip dated December 6, 1996 that, appellant was totally incapacitated.

In a statement dated December 7, 1996, appellant indicated that his work site was closed by the fire department on December 4, 1996 due to large amounts of carbon monoxide. Appellant further stated that employing establishment's maintenance department visited the building four times beginning November 26, 1996 to address employee complaints regarding the fumes. He stated that problems arose from the employing establishment's heating system which had to be shut down for a time. Appellant indicated that the problem returned on December 7, 1996.

The record also contained work orders indicating that the heaters had been repaired due to problems with fumes and carbon monoxide.

In a letter dated December 24, 1996, the employing establishment indicated that the fume incidents began on November 26, 1996 as a result of faulty ventilation.

On February 6, 1996 the Office of Workers' Compensation Programs requested additional information, including a physician's opinion supported by a medical explanation as to how the reported work incident caused or aggravated the claimed injury. Appellant was given 20 days to provide such information.

By decision dated March 13, 1997, the Office found that fact of injury was not established and denied appellant's claim. The Office determined that the claimed event occurred, but found that the record failed to contain a well-reasoned medical opinion supporting the presence of the diagnosed condition due to carbon monoxide exposure.

The Board finds that appellant failed to meet his burden to establish that he sustained an injury in the performance of duty on or after November 18, 1996.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim[2] including the fact that the individual is an "employee of the United States" within the meaning of the Act,[3] that the claim was timely filed within the applicable time limitation period of the Act,[4] 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.[5] These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[6]

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.[7] Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.[8] An employee may establish that an injury occurred in the performance of duty as alleged, but fail

[1] 5 U.S.C. §§ 8101-8193.

[2] *See Daniel R. Hickman*, 34 ECAB 1220 (1983); *see also* 20 C.F.R. § 10.110.

[3] *See James A. Lynch*, 32 ECAB 216 (1980); *see also* 5 U.S.C. § 8101(1).

[4] 5 U.S.C. § 8122.

[5] *See Melinda C. Epperly*, 45 ECAB 196 (1993).

[6] *See Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[7] *See John J. Carlone*, 41 ECAB 354 (1989).

[8] *Id*. For a definition of the term "injury," *see* 20 C.F.R. § 10.5(a)(14).

to establish that his or her disability and/or specific condition for which compensation is claimed are causally related to the injury.[9]

To accept fact of injury in a traumatic injury case, the Office, in addition to finding that the employment incident occurred in the performance of duty as alleged, must also find that the employment incident resulted in an "injury." The term "injury" as defined by the Act, as commonly used, refers to some physical or mental condition caused either by trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.[10] The question of whether an employment incident caused a personal injury generally can be established only by medical evidence.[11]

In this case, there is no dispute that appellant was an "employee" within the meaning of the Act, nor that appellant timely filed her claim for compensation. Moreover, the Office accepted that the work incidents occurred as alleged. Appellant, however, has not submitted sufficient medical evidence to establish that he incurred an employment-related injury. Dr. Watts, a Board-certified surgeon, supplied the only reports addressing appellant's condition. Dr. Watts completed a disability slips on November 30, 1996 indicating only that appellant suffered totally incapacitating headaches and abdominal cramps. Dr. Watt's December 6, 1996 disability slip only indicated that appellant was totally incapacitated. Finally, in his December 6, 1996 Form CA-17 duty status report, Dr. Watts merely checked "yes" to indicate that appellant's headaches and abdominal cramps were due to exposure to fumes. None of these reports explained how and why the employment incident caused or aggravated appellant's headaches and abdominal cramps. Moreover, a medical report that checks on a form report "yes," with regard to whether a condition is employment related, is of diminished probative value without further detail or elaboration.[12] Consequently, appellant has not submitted rationalized medical evidence, based upon a complete history, explaining how and why his condition is employment related. As noted above, the question of whether an employment incident caused a personal injury generally can only be established by medical evidence. Such evidence was requested by the Office, but was not submitted by appellant.

[9] As used in the Act, the term "disability" means incapacity because of an injury in employment to earn the wages the employee was receiving at the time of injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity; *see Frazier V. Nichol*, 37 ECAB 528 (1986).

[10] *See Elaine Pendleton*, 40 ECAB 1143 (1989).

[11] *See Carlone*, *supra* note 7.

[12] *Lester Covington*, 47 ECAB 539 (1996).

The decision of the Office of Workers' Compensation dated March 13, 1997 is affirmed.

Dated, Washington, D.C.
March 11, 1999

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member