

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD A. REYNOLDS and DEPARTMENT OF THE ARMY,
PROVOST MARSHALL, Fort Monmouth, NJ

*Docket No. 98-1050; Submitted on the Record;
Issued November 10, 1999*

DECISION and ORDER

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

The issue is whether appellant met his burden of proof to establish that he sustained an injury while in the performance of duty on August 21, 1997.

On August 29, 1997 appellant, a 53-year-old federal police officer, filed a Form CA-1 claim based on traumatic injury, alleging that on August 21, 1997, he slipped on some steps and injured his lower back and right knee.

By letters dated September 18, 1997, the Office of Workers' Compensation Programs requested that appellant submit additional information in support of his claim, including a medical report, opinion, and diagnosis from a physician, supported by medical reasons, as to how the reported work incident caused or aggravated the claimed injury. The Office further requested that appellant describe in detail how the injury occurred and when he initially sought medical treatment for his alleged employment injury. The Office informed the employee that he had 30 days to submit the requested information.

In response to the Office's letter, appellant submitted: a September 28, 1997 factual statement explaining in detail the manner in which he sustained his employment injury on August 21, 1997; a September 30, 1997 treatment note from Dr. Anand Swaroop, a Board-certified orthopedic surgeon, in addition to an undated report from Dr. Swaroop; and a September 19, 1997 x-ray report. In his September 30, 1997 treatment note, Dr. Swaroop recommended that appellant undergo physical therapy due to low back pain. He stated in his undated note that appellant was being treated for an acute lumbosacral strain, and advised appellant not to work until he completed his course of physical therapy which was scheduled from September 29 to October 21, 1997. The September 19, 1997 x-ray report indicated that appellant had mild degenerative changes of L4 and L5 in the form of anterior marginal spurring, with no evidence of acute bone injury or malalignment, and no other significant bony abnormality.

By decision dated October 21, 1997, the Office found that appellant failed to submit sufficient medical evidence to support his claim that he sustained an injury in the performance of duty on August 21, 1997.

By letter dated November 5, 1997, appellant requested a review of the written record. Accompanying the request was an October 23, 1997 treatment note from Dr. Swaroop indicating that appellant could return to work as of November 1, 1997 and a return to work slip dated October 31, 1997 which indicated appellant had experienced low back pain in the line of duty.

By decision dated January 16, 1998, the Office affirmed its previous decision, finding that appellant failed to submit evidence sufficient to warrant modification.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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.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

To determine whether a federal 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.⁴ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁵ The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

¹ 5 U.S.C. § 8101 *et seq.*

² *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

⁵ *Id.* For a definition of the term "injury," *see* 20 C.F.R. § 10.5(a)(14).

⁶ *Id.*

In the present case, there is no dispute as to whether appellant experienced the employment incident at the time, place and in the manner alleged. However, the question of whether an employment incident caused a personal injury generally can be established only by medical evidence,⁷ and appellant has not submitted rationalized, probative medical evidence to establish that the employment incident on August 21, 1997 caused a personal injury and resultant disability.

In the present case, the medical evidence submitted by appellant indicated he was being treated for an acute lumbosacral strain, that he was undergoing physical therapy due to low back pain, and that he had mild degenerative changes at L4 and L5 of the lumbar spine with no misalignment or significant abnormality. None of these reports, however, provide a probative, rationalized medical opinion sufficient to demonstrate that appellant's alleged August 21, 1997 employment incident caused a personal injury or resultant disability. Appellant did submit an October 31, 1997 return to work slip which summarily stated that he had experienced low back pain in the line of duty. However, causal relationship must be established by rationalized medical opinion evidence, and appellant failed to submit such evidence in the present case. Appellant did not provide a medical opinion which sufficiently describes or explains the medical process through which the August 21, 1997 work accident would have been competent to cause the claimed injuries. Thus, the Office's decisions are affirmed.

The October 21, 1997 and January 16, 1998 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.
November 10, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

⁷ See *Carlone*, *supra* note 4.