U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LUCAS J. BRAXTON and DEPARTMENT OF THE ARMY,
U.S. ARMY CARDET COMMAND, Fort Bragg, NC

Docket No. 98-1143; Submitted on the Record;
Issued November 5, 1999

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty on April 7, 1997.

On May 16, 1997 appellant, then a 21-year-old Army ROTC Cadet, filed a notice of traumatic injury and claim for compensation, Form CA-1, alleging that he sustained an injury in the performance of duty on April 7, 1997. Appellant states that he suffered stomach pains during a field training exercise. On the reverse side of this form, the employing establishment indicated that its knowledge of the alleged incident was in agreement with the statements made by appellant.

Appellant also submitted a May 16, 1997, authorization for examination and/or treatment, Form CA-16, from Dr. W.A. Reese, Board-certified in emergency medicine. In this form, he noted that he examined and treated appellant on April 7, 1997; diagnosed appellant with gastroenteritis; checked a "NO" box indicating that appellant's diagnosed condition was found not to have been caused or aggravated by the employment activity described; however, no history of injury was provided. Appellant was placed on total disability from April 7 to April 9, 1997 and was able to resume regular work on April 10, 1997.

By letter dated June 30, 1997, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish his claim and requested that he submit such. The Office particularly requested that appellant submit a physician's reasoned opinion addressing the relationship of his claimed injury and specific employment factors. Appellant was allotted 30 days within which to submit the requested evidence.

Appellant did not respond to the Office's June 30, 1997 letter or submit evidence to support his claim.

By decision dated August 18, 1997, the Office denied appellant's claim for compensation benefits on the grounds that the evidence of record failed to support the fact of an injury in this case. In an accompanying memorandum, the Office noted that appellant was advised of the deficiency in his claim on June 30, 1997 and afforded an opportunity to provide supportive evidence; however, evidence sufficient enough to support the fact that appellant sustained an injury on April 7, 1997 has not been submitted.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty on April 7, 1997.

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability 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 occupational disease.[3]

In a claim for compensation based on a traumatic injury, the employee must establish fact of injury by submitting proof that she or he actually experienced the employment accident or event in the performance of duty and that such an accident or event caused an injury as defined in the Act and its regulations.[4] The Office's regulations define traumatic injury as a wound or other condition of the body caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.[5] The injury must be caused by a specific event or incident or series of events of incidents within a single workday or shift.[6]

In determining whether an employee sustained an injury in the performance of her or his duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components considered in conjunction with one another.[7] The first component to be established is that the employee actually experienced the employment incident at the time, place and in the manner alleged. In this case, the Office found that the claimed incident occurred at the time, place and in the manner alleged. The second

[1] 5 U.S.C § 8101 *et seq.*

[2] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[3] *Id.*

[4] *Gene A. McCracken*, 46 ECAB 593, 586 (1995).

[5] 20 C.F.R. § 10.5(15).

[6] *Richard D. Wray*, 45 ECAB 758, 762 (1994).

[7] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2(a) (June 1995); *see also Elaine Pendleton, supra* note. 2.

component, whether the employment incident caused a personal injury, generally must be established by medical evidence.[8]

The medical evidence required is generally rationalized medical opinion evidence which includes a physician's opinion of reasonable medical certainty based on a complete factual and medical background of the claimant and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[9] Neither the fact that appellant's condition became apparent during a period of employment nor appellant's belief that her or his condition was caused by their employment is sufficient to establish a causal relationship.[10]

In this case, the Office found that the claimed event, incident or exposure occurred at the time, place and in the manner alleged. However, there is no rationalized medical opinion evidence to support the fact that appellant suffered an injury or disability causally related to any specific work factors. Appellant submitted an authorization for examination and/or treatment (Form CA-16) dated May 16, 1997 and on the reverse side of this form is a report dated April 7, 1997, from Dr. Reese which diagnosed appellant with gastroenteritis. He, however, failed to present an awareness of appellant's specific job duties or provide a history of injury. Instead, Dr. Reese checked a "No" box to the questions: (1) whether there is any history or evidence of concurrent or preexisting injury, disease or physical impairment; and (2) whether he believed the condition found was caused or aggravated by the employment activities described. He also failed to present any findings with x-rays, laboratory test, etc., in this case. The medical report submitted by Dr. Reese is insufficient to establish appellant's claim for benefits. Consequently, appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty on April 7, 1997.

[8] *John J. Carlone*, 41 ECAB 354, 357 (1989).

[9] *Ern Reynolds*, 45 ECAB 690, 695 (1994).

[10] *Lourdes Harris*, 45 ECAB 545, 547 (1994).

The decision of the Office of Workers' Compensation Programs dated August 18, 1997 is hereby affirmed.

Dated, Washington, D.C.
November 5, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member