

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT L. JOHNSON and DEPARTMENT OF VETERANS AFFAIRS,
OUTPATIENT CLINIC, Toledo, OH

*Docket No. 99-102; Submitted on the Record;
Issued April 17, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant sustained an employment injury on February 19, 1997, as alleged.

On February 24, 1997 appellant, then a 46-year-old clerk, filed a claim for a "jammed hand" that "caused numbness in fingers [and] thumb on right hand." As the cause of the injury, appellant cited a February 19, 1997 incident in which he "tried to stop door from closing with right hand and door slammed onto right hand." By decision dated October 29, 1997, the Office of Workers' Compensation Programs found: "The medical evidence of record was not sufficient because the medical evidence fails to provide a history of the injury of February 19, 1997; definite diagnosis and a physician's opinion, supported by objective findings, as to the medical connection between your condition and the injury as reported on February 19, 1997."

Appellant requested a review of the written record and submitted additional medical evidence. By decision dated March 26, 1998, an Office hearing representative found: "The evidence is sufficient to establish the fact of injury, but not the causal relationship of the claimed medical condition to the implicated employment factor.... In the present case, there is no reasoned medical discussion of how the cited incident caused or aggravated the claimant's medical condition." By letter dated April 29, 1998, appellant requested reconsideration and submitted additional medical evidence. By decision dated July 7, 1998, the Office found that one of the newly submitted medical reports lent support to the claim, but that a February 19, 1997 employee health unit note stated that appellant denied any trauma. The Office decision then stated: "Considering his oral history provided to the health unit physician, no actual trauma exists. Therefore, because of this the condition claimed cannot be related to the injury as reported."

The Board finds that the case is not in posture for a decision.

In a March 26, 1998 decision, an Office hearing representative found that the evidence was sufficient to establish fact of injury, but that the medical evidence was not sufficient to establish causal relation. In its most recent decision, which is dated July 7, 1998, the Office found that no actual trauma occurred on February 19, 1997, which strongly implies that the February 19, 1997 incident did not occur as alleged by appellant in his claim. Given these contradictory findings in two decisions over which the Board has jurisdiction, the Board is unable to determine the basis for the Office's denial of the claim and whether the evidence of record supports denial of the claim on this basis.¹

In determining whether a claimant has discharged his or her burden of proof and is entitled to compensation benefits, the Office is required by statute and regulation to make findings of fact. Section 8124(a) of the Federal Employees' Compensation Act provides: "The [Office] shall determine and make a finding of facts and make an award for or against payment of compensation."² The Office's regulations, at 20 C.F.R. § 10.130, provide in part that the final decision of the Office "shall contain findings of fact and a statement of reasons."

The case will be remanded to the Office for a factual determination, based on all the evidence of record, concerning what actually occurred on February 19, 1997.³ Unless it finds that no employment incident occurred on that date, the Office should then analyze the medical evidence to determine what, if any, condition was caused by the February 19, 1997 employment incident. The Office should then issue an appropriate decision.

¹ The situation in this case is similar to that in *Elaine Pendleton*, 40 ECAB 1143 (1989), in which the Board found that the issues of fact of injury and causal relationship were intermingled in the Office's decision, precluding the Board from determining the basis of the Office's denial of the claim.

² 5 U.S.C. § 8124(a).

³ See *Joseph J. Diers*, 34 ECAB 729 (1983).

The decisions of the Office of Workers' Compensation Programs dated July 7 and March 26, 1998 are set aside and the case remanded to the Office for further action consistent with this decision of the Board.

Dated, Washington, D.C.
April 17, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member