U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELLERTON R. SPRUIELL and DEPARTMENT OF THE NAVY, NORFOLK NAVAL BASE, Norfolk, VA

Docket No. 00-136; Submitted on the Record;
Issued December 21, 2000

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury while in the performance of duty on June 4, 1998 as alleged.

The Board has duly reviewed the record on appeal and finds that this case is not in posture for decision because further development of the medical evidence is warranted on the issue of causal relationship.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.[2]

The Board finds that the factual evidence of record is sufficient to establish that appellant experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. On June 18, 1998 appellant, then a 53-year-old motor vehicle operator, filed a claim for traumatic injury alleging that on June 4, 1998 he sustained a back injury when he fell down at work.

The employing establishment controverted appellant's claim on the grounds that appellant's fall was idiopathic. In an August 31, 1998 decision denying appellant's claim, the Office of Workers' Compensation Programs noted that the medical evidence contained three different histories of the injury, none of which coincided with the history provided by appellant

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[1] 5 U.S.C. §§ 8101-8193.

[2] *See generally John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993); *see also* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(q), (ee) ("occupational disease or illness" and "traumatic injury" defined).

on his claim form. By letters dated September 18 and November 16, 1998, appellant requested reconsideration and submitted additional factual and medical evidence in support of his request.

In a decision dated August 6, 1999, the Office found the additional evidence insufficient to establish that the claimed injury occurred at the time, place and in the manner alleged and, therefore, insufficient to warrant modification of the prior denial.

The initial evidence connected with this claim is a note dated June 4, 1998 from a DePaul Medical Center Emergency Department triage nurse, who documented appellant's complaints of mid and low back pain and noted that appellant was working in a shed, caught his foot on something and fell back and hit his back on a cabinet. A medical report completed on June 4, 1998 by Drs. Maria T. Vega and Christine Snell contains a more detailed history of the injury, notes that appellant was transported to the hospital by navy rescue in full cervical spine backboard immobilization and states:

> "The patient is a 53-year-old black male, who was at work this morning, was standing on a box at ground level and somehow the box went out from under him or he tripped over something and fell forward landing face forward on his abdominal area catching himself with his hands. After that he began having significant mid lower back pain."

Drs. Vega and Snell further noted that appellant gave a history of past back problems and that x-rays showed degenerative joint disease of both the cervical and lumbosacral spine, with narrowing of disc space at L4-5. The physicians diagnosed lumbosacral sprain and cervical strain status post fall.

A June 11, 1998 medical report from treating physician Dr. Lisa Jenkins, a Board-certified family practitioner, notes that appellant stated that he reinjured himself when he fell forward while carrying and dragging some heavy chains. Dr. Jenkins also noted appellant's history of prior back injuries and diagnosed a back sprain.

In a July 9, 1998 attending physician's report, Dr. Jenkins noted that while "pulling heavy equipment at work" appellant felt a pulling sensation in his lower back. Dr. Jenkins again noted appellant's history of prior back injuries, including injuries suffered in a December 18, 1997 motor vehicle accident, indicated by checking a box marked "yes" that appellant's injury was causally related to his employment and explained her conclusion stating: "I believe that [appellant's] activity at work aggravated an existing health problem."

In narrative statements dated July 26 and November 16, 1998, appellant explained the seemingly conflicting reports of the injury, stating:

> "The present claim is for injury to my lower back which occurred on 4 Jun 1998…. On that date I was ordered to enter and clean out a convex box. The box is a container, being a ten feet cube. It was filled with a mixture of various materials, including hazmat clothing, wooden pallets, tires, canvas covers, an air conditioner, 50-gallon drums and items like racks. Under all of this, covering the floor, was water. While working in that box my foot got caught on something. I fell over something, probably a pallet, landed on my stomach and felt and heard a

pop in my back. I called for help. I think I may have passed out for a while, as I do n[o]t remember much until the rescue squad was giving me oxygen."

In a narrative statement dated August 25, 1998, F. Chappell, appellant's supervisor, stated:

"On June 4, 1998 I instructed M. Noblick to assign [appellant] to clean a conex box of excess material. [Appellant] was advised by Mr. Noblick not to lift anything that was heavy or that would require two people to lift or move. Also, he was informed to be careful moving inside of the conex box as the floor was wet and to be careful moving around a pallet with cargo tarps on it. I do not remember seeing any boxes and there was no witness to the incident."

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his subsequent course of action. In determining whether a *prima facie* case has been established, such circumstances as late notification of injury, lack of confirmation of injury and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on a claimant's statements. The employee has not met this burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim.[3]

While appellant's account of the events of June 4, 1998 is largely confirmed by his supervisor, the physicians who treated appellant on the day of the incident and, thereafter, have provided quite differing explanations of the manner in which appellant injured his back. These inconsistencies are not sufficient to impugn the validity of appellant's claim, but they do diminish the probative value of the physicians' opinions relating appellant's injury to his work.

Causal relationship is a medical issue[4] and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,[5] must be one of reasonable medical certainty[6] and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.[7]

In this case, it is clear that appellant was injured at work. What is unclear is precisely how appellant fell. However, it is well established that proceedings under the Act are not

[3] *Carmen Dickerson*, 36 ECAB 409 (1985); *Joseph A. Fournier*, 35 ECAB 1175 (1984).

[4] *Mary J. Briggs*, 37 ECAB 578 (1986).

[5] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[6] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[7] *See William E. Enright*, 31 ECAB 426, 430 (1980).

adversarial in nature and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.[8] Accordingly, the case will be remanded to the Office for further evidentiary development regarding the issue of whether appellant sustained an employment-related injury on June 4, 1998.

The Office should prepare a statement of accepted facts regarding the June 4, 1998 injury, based on statements from appellant and his supervisor and should submit this statement to appellant's treating physicians, Drs. Vega, Snell and Jenkins, to obtain a medical opinion on the causal relationship between appellant's diagnosed conditions and the June 4, 1998 incident. After such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

The August 6, 1999 and August 31, 1998 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further action consistent with this opinion.

Dated, Washington, DC
December 21, 2000

David S. Gerson
Member

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member

[8] *Katherine J. Friday*, 47 ECAB 591 (1996).