U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM SULLIVAN and U.S. POSTAL SERVICE,
POST OFFICE, Merrifield, VA

Docket No. 98-1426; Submitted on the Record;
Issued June 2, 2000

DECISION and ORDER

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

The issue is whether appellant has established an injury in the performance of duty on June 13, 1995.

On June 25, 1997 appellant filed a traumatic injury claim (Form CA-1) alleging that on June 13, 1995 he sustained an injury to his hands while picking up a heavy sack. The record indicates that appellant has a prior claim that was accepted by the Office of Workers' Compensation Programs for bilateral carpal tunnel syndrome.[1] By decision dated January 28, 1998, the Office determined that appellant had not met his burden of proof to establish fact of injury.

The Board has reviewed the record and finds that appellant has not established an injury in the performance of duty on June 13, 1995.

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing that he or she sustained an injury while in the performance of duty.[3] In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally "fact of injury" consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the

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[1] By decision dated September 22, 1995, the Office denied a claim for recurrence of disability commencing June 13, 1995. The Board's jurisdiction is limited to final decisions issued within one year of the filing of the appeal, and since appellant filed his appeal on March 26, 1998, the Board lacks jurisdiction over this decision; *see* 20 C.F.R. § 501.3(d)(2).

[2] 5 U.S.C. §§ 8101-8193.

[3] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.110(a).

employment incident caused a personal injury, and generally this can be established only by medical evidence.[4]

In this case, the Office indicated that the evidence supported the occurrence of the alleged lifting incident on June 13, 1995. The medical evidence of record is not, however, sufficient to establish a diagnosed injury causally related to the employment incident.

The record contains a duty status report (Form CA-17) dated June 13, 1995, but the physician did not provide a history or diagnosis. There is a treatment note dated June 14, 1995 reporting bilateral hand pain, but again there is no history of a June 13, 1995 employment incident, nor a statement relating a diagnosed condition to the incident.[5] Appellant began treatment with Dr. Margaret Fisher, a rheumatologist, and in a report dated June 29, 1995, she diagnosed probable myofascial pain. Dr. Fisher reported that appellant complained that "everything he does at work hurts," with improvement occurring if appellant is off work for a couple of days. Dr. Fisher did not provide a history of the June 13, 1995 incident. In reports dated June 13, 1996 and July 31, 1997, Dr. Fisher stated that appellant was treated for myofascial pain and fibromyalgia, and "he has had pain in his arms for many years that is very much aggravated by repetitive motion at work." The Board notes that the claim in this case is for an injury causally related to a June 13, 1995 employment incident.[6] Dr. Fisher does not provide a history of a June 13, 1995 incident, nor a reasoned opinion on causal relationship with the incident.

The Board has held that medical evidence must be in the form of a reasoned opinion by a qualified physician based on a complete and accurate factual and medical history.[7] The medical evidence of record does not contain a complete and accurate history of the June 13, 1995 incident, nor a reasoned medical opinion on causal relationship between a diagnosed injury and the employment incident. Accordingly, the Board finds that appellant has not met his burden of proof in this case.

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

[5] The physician's signature is illegible.

[6] A claim for an aggravation caused by work incidents occurring over more than one workday is considered an occupational disease or illness and the appropriate claim form is a CA-2. 20 C.F.R. §§ 10.5(16), 10.20.

[7] *Robert J. Krstyen*, 44 ECAB 227, 229 (1992).

The decision of the Office of Workers' Compensation Programs dated January 28, 1998 is affirmed.

Dated, Washington, D.C.
June 2, 2000

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member