U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM C. BONZER and DEPARTMENT OF THE TREASURY, U.S. CUSTOMS SERVICE, Washington, DC

Docket No. 99-2150; Submitted on the Record;
Issued September 7, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS, VALERIE D. EVANS-HARRELL

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty on March 26, 1999, as alleged.

On March 28, 1999 appellant, then a 36-year-old customs officer, filed a claim for traumatic injury alleging that on March 26, 1999 he sustained an injury to his right shoulder and upper arm while in the performance of duty. The employing establishment noted that appellant was injured in the performance of duty and that he had stopped work on March 29, 1999 and returned to work the next day.[1]

On April 26, 1999 the Office of Workers' Compensation Programs advised appellant that it needed additional information in order to process his claim properly including a rationalized medical opinion from his doctor explaining how the reported work incident caused the claimed injury.

The Office, in a decision dated June 8, 1999, denied appellant's claim on the grounds that the medical evidence of record failed to establish that his condition was caused by the March 26, 1999 incident.

The Board has duly reviewed the case record and concludes that appellant has not met his burden of proof in this case.

Establishing whether an injury, traumatic or occupational, was sustained in the performance of duty as alleged, *i.e.*, "fact of injury," and establishing whether there is a causal relationship between the injury and any disability and/or specific condition for which compensation is claimed, *i.e.*, "causal relationship," are distinct elements of a compensation claim. While the issue of "causal relationship" cannot be established until "fact of injury" is

[1] The record contains documents not associated with this claim.

established, acceptance of fact of injury is not contingent upon an employee proving a causal relationship between the injury and any disability and/or specific condition for which compensation is claimed. An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or specific condition for which compensation is claimed are causally related to the injury.[2]

To accept fact of injury in a traumatic injury case, the Office, in addition to finding that the employment incident occurred in the performance of duty as alleged, must also find that the employment incident resulted in an "injury." The term "injury" as defined by the Federal Employees' Compensation Act, as commonly used, refers to some physical or mental condition caused either by trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.[3] The question of whether an employment incident caused a personal injury generally can be established only by medical evidence.[4]

In the present case, the Office has accepted that a March 26, 1999 employment incident occurred, as alleged. The remaining issue is whether the incident caused a personal injury. As noted above, it is appellant's burden to establish the essential elements of his claim. In order to meet his burden, appellant must submit rationalized medical evidence, based upon a specific and accurate history of injury, showing a causal relation between the employment incident and the condition. Appellant submitted no medical evidence providing a description of the employment incident or a rationalized opinion as to causal relationship between the incident and appellant's right shoulder and upper arm condition.

[2] As used in the Act, the term "disability" means incapacity because of an injury in employment to earn wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity; *see Frazier V. Nichol*, 37 ECAB 528 (1986).

[3] *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

The decision of the Office of Workers' Compensation Programs dated June 8, 1999 is affirmed.[5]

Dated, Washington, D.C.
September 7, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Valerie D. Evans-Harrell
Alternate Member

[5] The Board notes that subsequent to the Office's June 8, 1999 decision, appellant submitted additional evidence. The Board has no jurisdiction to review this evidence for the first time on appeal. 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 n. 2 (1952).