U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of THOMAS S. HYSLIP and DEPARTMENT OF THE TREASURY, U.S. SECRET SERVICE, Washington, DC

Docket No. 01-1017; Submitted on the Record;
Issued December 12, 2001

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS, A. PETER KANJORSKI

The issue is whether appellant met his burden to establish that he sustained an injury in the performance of duty on September 26, 2000.

On September 27, 2000 appellant, then a 30-year-old special agent, filed a claim for compensation benefits, alleging that he injured his back on September 26, 2000 when the vehicle he was driving was struck by a truck which had made an illegal right turn. Appellant did not submit any medical evidence with his claim.

In a letter dated January 23, 2001, the Office of Workers' Compensation Programs informed appellant that additional information, including a medical report from a physician who examined him as a result of the injury, was needed to make a determination on his claim for benefits. He was provided 30 days to respond to an attached questionnaire and submit the requested information.[1] Appellant did not submit any additional evidence.

By decision dated February 23, 2001, the Office denied appellant's claim finding that he failed to submit medical evidence sufficient to establish that he sustained the claimed injury in the performance of duty.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty on September 26, 2000.

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing that the essential elements of his claim including the fact that the

[1] The Office additionally sent appellant another letter dated January 23, 2001, which advised of a potential third-party claim and requested appellant to answer questions on the enclosed questionnaire.

[2] 5 U.S.C. §§ 8101-8193.

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 and/or specific condition for which compensation is claimed are causally related to the employment injury.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.[5] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[6] The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[7]

In the present case, it is uncontested that appellant experienced the employment incident at the time, place and in the manner alleged. However, the question of whether an employment incident caused a personal injury generally can be established only by medical evidence[8] and appellant has not submitted rationalized, probative medical evidence to establish that the employment incident on September 26, 2000 caused a personal injury and resultant disability.

In the present case, appellant has not submitted a rationalized, probative medical opinion sufficient to demonstrate that his September 26, 2000 employment incident caused a personal injury or resultant disability. In this regard, the Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.[9] Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[10] Causal relationship must be

[3] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *Victor J. Woodhams*, 41 ECAB 345 (1989).

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

[6] *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

[7] *Id.*

[8] *See John J. Carlone*, *supra* note 5.

[9] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

[10] *Id.*

established by rationalized medical opinion evidence and appellant failed to submit such evidence in the present case. He did not provide a medical opinion to sufficiently describe or explain the medical process through which the September 26, 2000 work accident would have been competent to cause the claimed injury. Thus, the Office's February 23, 2001 decision is affirmed.

The decision of the Office of Workers' Compensation Programs dated February 23, 2001 is affirmed.[11]

Dated, Washington, DC
December 12, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

[11] With his appeal appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c). Appellant may resubmit this evidence and legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a). 20 C.F.R. § 10.606(b) (1999).