

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES W. KIOUSIS and DEPARTMENT OF VETERANS AFFAIRS,
REGIONAL OFFICE, Cleveland, OH

*Docket No. 00-2253; Submitted on the Record;
Issued June 7, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant met his burden of proof to establish that he sustained a coronary vascular condition or bilateral carpal tunnel syndrome in the performance of duty.

In March 1997 appellant, then a 53-year-old work-study program participant,¹ filed an occupational disease claim alleging that his work duties aggravated his preexisting coronary vascular condition² and caused him to sustain bilateral carpal tunnel syndrome. By decision dated September 4, 1997, the Office of Workers' Compensation Programs denied his claim on the grounds that he was not an employee under section 8101 of the Federal Employees' Compensation Act. By decision dated and finalized October 21, 1998, an Office hearing representative affirmed the Office's September 4, 1997 decision.

Appellant appealed the Office decisions to the Board; the Director of the Office filed a motion to reverse the Office's prior decisions on the grounds that appellant was in fact an employee under section 8101 of the Act. By order dated November 16, 1999, the Board granted the Director's motion to reverse and remanded the case to the Office for further development and a decision regarding whether appellant sustained an employment-related coronary vascular condition or carpal tunnel syndrome. On remand the Office engaged in further development of the medical evidence. By decision dated June 9, 2000, the Office denied appellant's claim on the grounds that the medical evidence did not show that he sustained a coronary vascular condition or bilateral carpal tunnel syndrome in the performance of duty.

¹ Appellant was a work-study program participant from June 27 to August 18, 1994 as part of a vocational rehabilitation program. As part of these efforts, he had been taking accounting classes since November 1992, but he did not work or take classes after August 18, 1994. Appellant had been receiving Veterans benefits based on his coronary vascular and inguinal hernia conditions; beginning in 1994 he received Veterans benefits for bilateral carpal tunnel syndrome.

² The record reveals that appellant was first diagnosed with coronary artery disease in 1983.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a coronary vascular condition or bilateral carpal tunnel syndrome in the performance of duty.

An employee seeking benefits under the Act³ has the burden of establishing the essential elements of his or her claim including the fact that the 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.⁴ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion 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.⁶

With respect to the claimed employment factors, the Board finds that the Office properly accepted that appellant worked 200 hours from June 27 to August 18, 1994 in a work-study clerical position which required typing for 5 minutes per day, filing records, answering telephone calls, walking up and down stairs and walking 50 yards to a copy machine. The Office also properly accepted that appellant took classes from November 1992 until no later than August 18, 1994. The Board has reviewed the factual evidence of record and notes that the employment factors accepted by the Office are in accordance with this evidence.⁷

³ 5 U.S.C. §§ 8101-8193.

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁶ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁷ Where the disability results from an employee’s stress-related reaction to his regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Act; *see Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff’d on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

However, the Board further finds that the record does not contain sufficient medical evidence to establish that appellant sustained a coronary vascular condition or bilateral carpal tunnel syndrome due to these employment factors.

In support of his claim, appellant submitted a December 2, 1996 report in which Dr. Than M. Jain, an attending Board-certified cardiologist, noted that he reported chest pain in April 1995 “thought to be very typical for angina pectoris” and stated, “At that time, [appellant] was under a lot of stress because of going back to school and working in the work-study program through the [Veterans Administration] Hospital. It appears [his] symptoms of chest pain [were] aggravated because of stress induced by going back to school and work-related program.”

The submission of this report does not establish appellant’s claim as the report does not contain a clear opinion on causal relationship.⁸ Dr. Jain’s statement regarding appellant’s work-study program appears to be a recitation of appellant’s complaints rather than an opinion on causal relationship. Moreover, the report is of limited probative value for the further reason that it is not based on a complete and accurate factual and medical history.⁹ It does not appear from the record that appellant was participating in a work-study program in April 1995. Dr. Jain also did not provide any notable examination or diagnostic testing findings.

Appellant submitted a November 25, 1996 report in which Dr. Leonard Alperin, an attending physician Board-certified in physical medicine and rehabilitation, noted that appellant claimed his coronary vascular and bilateral carpal tunnel syndrome were aggravated by his work-study program. Dr. Alperin stated, “It is our opinion, based on the history and subjective complaints, that the carpal tunnel syndrome is, within medical probability, a result of the work-study program, in particular, a result of the clerical work -- typing.” The Board notes that Dr. Alperin’s statement also appears to be more a recitation of appellant’s complaints than an opinion on causal relationship. Moreover, the report is of limited probative value for the further reason that it is not based on a complete and accurate factual and medical history. Dr. Alperin did not provide any examination or diagnostic testing findings. It also remains unclear whether he knew that appellant only typed for five minutes per day.

In addition, the record contains medical evidence which shows that appellant did not sustain a coronary vascular condition or bilateral carpal tunnel syndrome in the performance of duty. In a report dated April 20, 2000, Dr. William J. Rowe, a Board-certified cardiologist to whom the Office referred appellant, indicated that appellant’s employment-related activities through August 1994 did not aggravate his preexisting coronary vascular disease. He noted that appellant’s continuing problems were due to the natural progression of his underlying condition.¹⁰ In reports dated in January and February 2000, Dr. Devi P. Tantri, a Board-certified

⁸ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship).

⁹ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history).

¹⁰ The Office initially referred appellant to Dr. Robert R. Houston, a Board-certified cardiologist. After it was determined that Dr. Houston’s opinion required clarification and Dr. Houston refused to provide such clarification, the Office properly proceeded to refer the case to Dr. Rowe.

surgeon to whom the Office referred appellant, posited that it was unlikely that appellant sustained carpal tunnel syndrome while he participated in the work-study program.

The June 9, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
June 7, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Member