

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SCOTT E. JOHNSON and DEPARTMENT OF THE AIR FORCE,
ALTUS AIR FORCE BASE, OK

*Docket No. 00-979; Submitted on the Record;
Issued May 3, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant sustained an injury in the performance of duty on February 23, 1999, as alleged.

On March 1, 1999 appellant, then a 36-year-old flight line supervisor, filed a traumatic injury claim alleging that on February 23, 1999 he experienced increased blood pressure and stress during several personnel disciplinary incidents and maintenance malfunctions occurring simultaneously. On the claim form, George E. Standard, a witness, stated: "I concur with [the] above statement." Appellant stopped work on February 23, 1999 and returned on March 1, 1999. He first received medical care from Dr. Richard L. Cone, an emergency medicine specialist at Jackson County Memorial Hospital.

To support his claim, appellant submitted emergency room registration forms dated February 23, 1999 from Jackson County Memorial Hospital noting his medical history and symptoms including a sudden onset of sharp left-sided chest pains, weakness and nausea while at work.

Appellant also submitted notes dated February 23, 1999 from Dr. Cone noting appellant's complaints and the doctor's objective findings. A February 23, 1999 report from Dr. Ronald Nolley, Jr., a diagnostic radiologist, stated that a chest x-ray revealed that appellant's heart was of normal size and contour, his lungs were clear and that no pneumothorax or pleural effusions were identified.

Appellant also submitted an electrocardiogram (EKG) and numerous reports dated February 23, 1999 from the hematology, chemistry, urinalysis and coagulation departments of Jackson County Memorial Hospital Laboratory.

By letter dated March 10, 1999, the Office of Workers' Compensation Programs advised appellant that the evidence submitted to support his claim was insufficient to establish that he

sustained an injury on February 23, 1999. The Office requested that he submit additional evidence and allowed him 30 days to respond to its request.

Appellant submitted a form report dated March 2, 1999 from S. Vance Paul, a certified physician's assistant. The report stated that appellant complained of weakness and heart palpitations and noted his medical history.

By decision dated April 16, 1999, the Office denied appellant's claim on the grounds that the evidence of record failed to establish fact of injury.

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 February 23, 1999, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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.² Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.³

When working conditions are alleged as factors causing disability, the Office must make findings of fact regarding which working conditions are deemed compensable factors of employment to be considered by a physician when providing an opinion on causal relationship, and which working conditions are not deemed factors of employment and may not be so considered.⁴ If a claimant fails to implicate a compensable factor of employment, the Office should make specific findings in that regard. If a compensable factor is implicated, the Office should determine whether the evidence of record substantiates that factor. Perceptions and feelings alone are not compensable. To establish entitlement to benefits under the Act, a claimant must establish a basis in fact for the claim by supporting his or her allegations with probative and reliable evidence.⁵

In this case, appellant alleged stress due to a flying schedule misprint, several personnel disciplinary problems and several maintenance malfunctions. However, despite a request from the Office for a more specific description of the factors appellant believes caused or contributed to his stress, his allegations are not sufficiently detailed or supported by the evidence of record. Appellant failed to provide any detailed description addressing his involvement in disciplinary

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Ronald K. White*, 37 ECAB 176, 178 (1985).

⁴ *See Helen P. Allen*, 47 ECAB 141 (1995).

⁵ *See Garry M. Carlo*, 47 ECAB 299(1996).

proceedings the parties involved, issues addressed, the nature of the maintenance malfunctions or flying schedule misprints or witness statements from parties with knowledge as to the alleged incidents. The evidence of record is not sufficient to establish appellant's allegations as factually established or as compensable factors arising from his employment.

Moreover, the record is devoid of probative medical evidence addressing the issue of whether appellant sustained injury causally related to factors of his federal employment. The hospital notes dated February 23, 1999 merely state that appellant complained of sharp left-sided chest pains, weakness and nausea while at work and do not address the issue of causal relationship. Dr. Cone's February 23, 1999 note contained objective findings but he did not render a rationalized medical opinion relating appellant's condition to any employment incidents. Similarly, Dr. Nolley's x-ray report, the EKG and other objective reports dated February 23, 1999 did not address causal relationship. Mr. Paul's March 2, 1999 form report is irrelevant because a physician's assistant's report is entitled to no weight as physician's assistants are not physicians pursuant to section 8101(2) of the Act.⁶ The medical evidence of record is devoid of a rationalized medical opinion addressing the issue of whether there is a causal relationship between appellant's alleged stress condition and any employment factors.

The decision of the Office of Workers' Compensation Programs dated April 16, 1999 is hereby affirmed.

Dated, Washington, DC
May 3, 2001

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁶ 5 U.S.C. § 8101(2); *Lyle E. Dayberry*, 49 ECAB 369 (1998).