

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARIA G. MARELLO and U.S. POSTAL SERVICE,
LUDLAM BRANCH, Miami, FL

*Docket No. 00-1289; Submitted on the Record;
Issued May 2, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issues are: (1) whether appellant sustained an injury on February 11, 1998 causally related to her employment; and (2) whether the Office of Workers' Compensation Programs acted within its discretion in denying appellant's request for further merit review.

On February 11, 1998 appellant, then a 53-year-old letter carrier, filed a traumatic injury claim alleging that on that date, while delivering mail on her route, she fell down on the sidewalk next to her employing establishment vehicle and injured her nose, left hand, right leg and back.

In reports dated February 11 and 12, 1998, a physician related that appellant fell to the ground on that date and sustained facial abrasions, acute cervical and lumbosacral sprains and an acute right hip sprain.

In a statement dated February 12, 1998, Barbara Banks, a coworker of appellant's, related that she gave appellant a ride from the hospital the evening of February 11, 1998 and appellant told her that she had turned to go back to her vehicle when her knee just gave way and she fell. She related appellant's statement that she did not trip over anything and nothing was obstructing her path.

In a report dated February 23, 1998, Dr. Margarita Del Val, an internist, indicated that appellant had a "vasovagal episode" on February 11, 1998.

By decision dated April 6, 1998, the Office denied appellant's claim on the grounds that the evidence of record was insufficient to establish that her injury arose out of and in the course of her employment.

By letter dated April 29, 1998, appellant requested an oral hearing and submitted additional evidence.

In a report dated March 2, 1998, Dr. Del Val related the history of the February 11, 1998 incident, stating “[appellant] found herself on the ground. She does not recall how or when she fell down.” Dr. Del Val diagnosed a vasovagal episode or syncope. She indicated that a computerized tomography (CT) scan of the brain, an electrocardiogram, blood tests and x-rays of the hands and spine were within normal limits.

In an undated statement, appellant related that on February 11, 1998 her supervisor and another supervisor yelled at her about an employing establishment vehicle in the parking lot, which was not locked while she and a coworker were having lunch. Appellant stated that she was humiliated and was in such a nervous state that when she returned to her route, she fell, broke her glasses and injured her face, hands and back. Appellant’s husband stated that her supervisor yelled at her on February 11, 1998 about the unlocked vehicle, which was his vehicle, and that he continued to yell at her, very close to her face, in the parking lot and made her nervous.

In a statement dated November 16, 1998, appellant’s supervisor denied yelling at her and stated that he and another supervisor were speaking to her husband about his unlocked vehicle when appellant yelled at the supervisors that their behavior constituted harassment. In a statement dated November 20, 1998, the second supervisor denied that he or appellant’s supervisor yelled at her or harassed her or her husband.

In a report dated April 15, 1998, Dr. Del Val related that appellant sought medical treatment on February 12, 1998 for injuries to her nose, hands and lower back after “passing out” on February 11, 1998 while working. She stated that appellant found herself on the ground but did not recall when or how she fell. Dr. Del Val opined that appellant “fell down and hurt herself at work” as a result of a syncopal episode.

In a fitness-for-duty evaluation dated October 6, 1998, Dr. Del Val diagnosed hypertension and mild mitral valve prolapse with mild mitral insufficiency. She recommended that appellant avoid emotional stress and lifting, pushing, long walking and climbing until her blood pressure was under control.

In a report dated October 15, 1998, Dr. Del Val stated that appellant had been under her care since December 19, 1997 and was seen on February 12, 1998 due to a syncope episode for which cardiac work up was ordered. She stated that she had not treated appellant for a syncope episode prior to February 12, 1998.

A hearing was held on October 19, 1998. Appellant testified that she was upset by the confrontation with her supervisor and indicated that she was concerned about disciplinary action. She stated that when she returned to her route she fell down and was unconscious for an unknown period of time but did not know what caused her to fall.

By decision dated and finalized December 15, 1998, an Office hearing representative affirmed the Office’s April 6, 1998 decision. She stated that the evidence established that the incident on February 11, 1998 was an idiopathic fall which was not compensable. Although appellant believed that the stress of a confrontation with her supervisor on February 11, 1998 caused her to have a fainting episode, the factual evidence was insufficient to establish that her

supervisor acted abusively and the medical evidence was insufficient to establish that her syncope was due to work factors.

In a report dated June 8, 1999, Dr. Del Val explained the various causes of “syncope,” which she described as a sudden brief loss of consciousness. She stated that in some instances there is no clear etiology for a syncope. Dr. Del Val did not state what caused appellant’s syncope on February 11, 1998.

By letter dated August 9, 1999, appellant requested reconsideration and submitted additional evidence.¹ The Office denied modification of its prior decision on August 27, 1999.

On October 18, 1999 appellant again requested reconsideration. The Office denied merit review on November 17, 1999.

The Board finds that appellant met her burden of proof to establish that she sustained an injury in the performance of duty.

It is a well-settled principle of workers’ compensation law and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface and there is no intervention or contribution by any hazard or special condition of employment -- is not within coverage of the Federal Employees’ Compensation Act.² Such an injury does not arise out of a risk connected with the employment and is therefore not compensable. However, as the Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition.

This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to such general rule.³ If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted and caused the fall.⁴

¹ Appellant also submitted evidence previously of record.

² 5 U.S.C. §§ 8101-8193.

³ *Dora J. Ward*, 43 ECAB 767, 769 (1992); *Fay Leiter*, 35 ECAB 176, 182 (1983).

⁴ *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988); *Martha G. List*, 26 ECAB 200 (1974).

In this case, the medical evidence does not establish that appellant's syncopal episode on February 11, 1998 was due to a personal, nonoccupational pathology. Dr. Del Val indicated that appellant had a vasovagal episode⁵ or syncope⁶ on February 11, 1998 and related that appellant did not recall how or when she fell down. Dr. Del Val diagnosed a vasovagal episode. A CT scan of the brain, an electrocardiogram, blood tests and x-rays of the hands and spine were within normal limits and thus provided no idiopathic cause of appellant's syncope episode.

In a report dated April 15, 1998, Dr. Del Val related that appellant sought medical treatment on February 12, 1998 for injuries to her nose, hands and lower back after "passing out" on February 11, 1998 while working. Dr. Del Val opined that appellant fell down as a result of a syncopal episode but did not provide an opinion as to the cause of the syncope.

In a fitness-for-duty evaluation dated October 6, 1998, Dr. Del Val diagnosed hypertension and mild mitral valve prolapse with mild mitral insufficiency, she did not state that the syncope on February 11, 1998 was caused by these conditions.

In a report dated June 8, 1999, Dr. Del Val explained the various causes of "syncope," which she described as a sudden brief loss of consciousness. She stated that in some instances there was no clear etiology for a syncope.

Thus, there is no medical evidence of record establishing that the syncope on February 11, 1998 was caused by a personal nonoccupational pathology.

Although appellant felt that her syncope on February 11, 1988 was related to the confrontation with her supervisors on that date, there is no medical evidence from a physician establishing the cause of her syncope. Therefore, the fall in this case remains unexplained.

The Board finds that the syncopal episode remains an unexplained fall while appellant was engaged in activities related to her employment duties and is therefore compensable. The Board further finds that, in light of its resolution of the first issue, it is unnecessary to address the second issue in this case.

⁵ A "vasovagal attack" is defined as a transient vascular and neurogenic reaction marked by pallor, nausea, sweating, bradycardia and rapid fall in arterial blood pressure which, when below a critical level, results in loss of consciousness and characteristic electroencephalographic changes. It is most often evoked by emotional stress associated with fear or pain." See *Dorland's Illustrated Medical Dictionary*, (27th ed. 1988) at 167; see also 1810 (vasovagal) and 1801 (vagal).

⁶ "Syncope" is defined as "a temporary suspension of consciousness due to generalized cerebral ischemia [deficiency of blood]." See *Dorland's Illustrated Medical Dictionary*, *supra* note 5 at 1628; see also 857 (ischemia).

The November 17 and August 27, 1999 decisions of the Office of Workers' Compensation Programs are reversed and the case is remanded to the Office for a determination of the nature and extent of any disability causally related to the February 11, 1998 fall.

Dated, Washington, DC
May 2, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member