

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARK J. SKORCZEWSKI and DEPARTMENT OF THE AIR FORCE,
AIR NATIONAL GUARD, Madison, WI

*Docket No. 01-2036; Submitted on the Record;
Issued April 5, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty.

Appellant, a 37-year-old aircraft mechanic, filed a Form CA-2 claim for benefits based on occupational disease on December 28, 2000 alleging that he sustained damage to his respiratory system due to possible inhalation of exhaust fumes after being struck by an emergency power unit on December 27, 2000.

By letter dated January 16, 2001, the Office of Workers' Compensation Programs advised appellant that it required factual and medical evidence to determine whether he was eligible for compensation benefits. The Office asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition and an opinion as to whether his claimed condition was causally related to his federal employment. The Office requested that appellant submit the additional evidence within 30 days. Appellant did not submit any additional evidence.

By letter dated February 6, 2001, the employing establishment advised the Office that appellant's claim should have been filed as one for traumatic injury, as opposed to one based on occupational disease. The employing establishment advised the Office that appellant was seeking reimbursement only for clinic visits and for medical treatment.

By decision dated March 5, 2001, the Office denied appellant's claim on the grounds that appellant had failed to establish that a medical condition had been diagnosed in connection with the incident.

By letter dated March 30, 2001, appellant requested reconsideration. In support of this request, appellant submitted a December 27, 2000 report from Dr. Steven Valenti, Board-certified in emergency medicine, who noted findings on examination and stated that appellant

was exposed to more hydrazine vapor/exhaust fumes when an emergency power unit struck his right leg. He diagnosed minimal exposure to hydrazine with no apparent effects.

By decision dated July 20, 2001, the Office denied reconsideration.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a damage to his respiratory system due to possible inhalation of hydrazine vapor/exhaust fumes after being struck by an emergency power unit.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that 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 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.³

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.⁴ 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.⁵ 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.⁶

In this case, it is uncontested that appellant experienced the employment incident at the time, place and in the manner alleged. However, the question of whether this incident caused a personal injury has not been established. To prove that an injury occurred, appellant must submit

¹ 5 U.S.C. §§ 8101-8193.

² *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

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

⁵ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(ee).

⁶ *Id.*

rationalized, probative medical evidence to establish that the employment incident on December 27, 2000 caused a personal injury and resultant disability.⁷

In this case, appellant has not submitted a rationalized, probative medical opinion sufficient to demonstrate that his December 27, 2000 employment incident caused a personal injury or resultant disability. Although Dr. Valenti's December 27, 2000 report did verify that the incident occurred, it did not establish that any injury ensued as a result of the incident. Dr. Valenti's report stated:

“Patient denies burns.... Patient denies inhalation with no respiratory symptoms such as cough or upper respiratory burning or irritation reported. Patient denies nausea or vomiting or excitability.... Physical exam[ination] reveals ... no apparent distress. Lungs are clear.... Cardiovascular exam[ination] reveals regular rate and rhythm with no murmurs. No gallop.... No evidence of burn.”

Thus, the July 20 and March 5, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
April 5, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

⁷ See *John J. Carlone, supra* note 4.