

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROY R. RICE and U.S. POSTAL SERVICE,
POST OFFICE, Fort Worth, TX

*Docket No. 01-1583; Submitted on the Record;
Issued February 7, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, 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 October 25, 2000 appellant, a 57-year-old electronic technician, filed a claim for benefits, alleging that his ankle area became infected after he had hit his ankle on a piece of metal when he cleared a jam on the barney on October 17, 2000. A November 27, 2000 duty status report noted that appellant had cellulitis of the left lower leg. No diagnosis was provided. In an undated note, which the Office of Workers' Compensation Programs received on December 27, 2000, Dr. Michael G. Bailey, a Board-certified family practitioner, advised that appellant has multiple medical problems including poor circulation to his legs. Dr. Bailey advised that appellant has developed cellulitis in his lower leg that required IV antibiotics to resolve which has recurred. Dr. Bailey opined that appellant's bumping his leg on a piece of equipment which resulted in the initial infection was entirely possible.

In two letters, each dated January 11, 2001, the Office advised appellant that it required additional 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, indicating a diagnosis of the condition 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.

By letter dated January 31, 2001, appellant responded to the Office's questions. Additional medical evidence was also submitted.

A December 26, 2000 note from Dr. G. Jeffrey Young, a Board-certified family practitioner, noted that appellant had left lower extremity pain and was scheduled to undergo a venogram.

In a January 26, 2001 letter, Dr. Bailey stated that he recently treated appellant for cellulitis in his lower leg. Dr. Bailey advised that, although appellant reports that he bumped his leg on a piece of equipment at work, the cause of his cellulitis is undetermined.

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 October 17, 2000.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that the essential elements of his 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 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

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 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(a)(14).

⁶ *Id.*

incident caused a personal injury generally can be established only by medical evidence,⁷ and appellant has not submitted rationalized, probative medical evidence to establish that the employment incident on October 17, 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 October 17, 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.⁸ 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.⁹ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence in the present case. Although Dr. Bailey stated that it was entirely possible that bumping his leg could have caused the initial infection, in his January 26, 2001 letter, Dr. Bailey specifically stated that the cause of the cellulitis was undetermined. Appellant, therefore, did not provide a medical opinion to sufficiently describe or explain the medical process through which the October 17, 2000 work accident would have been competent to cause the claimed cellulitis. Thus, the Office's February 23, 2000 decision is affirmed.

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

⁸ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁹ *Id.*

The decision of the Office of Workers' Compensation Programs dated February 23, 2000 is affirmed.¹⁰

Dated, Washington, DC
February 7, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

¹⁰ With appellant's request for an appeal, appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c).