U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES N. VENEGAS and DEPARTMENT OF THE AIR FORCE, LAUGHLIN AIR FORCE BASE, TX

Docket No. 02-1092; Submitted on the Record;
Issued September 16, 2002

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON, WILLIE T.C. THOMAS

The issue is whether appellant sustained an injury in the performance of duty on July 11, 2001.

On July 11, 2001 appellant, then a 50-year-old electronic mechanic, filed a claim for a traumatic injury for a fractured right leg sustained on that date. As to cause of injury, the claim form states: "Employee went to the rest room to urinate and during the act, he states he lost consciousness and fell to the floor."

In an undated report on a form of the Office of Workers' Compensation Programs, Dr. Ty H. Goletz indicated that he first examined appellant on July 11, 2001, set forth a history that appellant fell at work due to diabetes mellitus, diagnosed fracture of the tibia and fibula, and answered "no" to the question "Do you believe the condition found was caused or aggravated by the employment activity described?"

In a letter dated August 7, 2001, an employing establishment injury compensation program administrator suggested that appellant's fall was idiopathic, as appellant had a preexisting condition of diabetes.

In a letter dated September 10, 2001, appellant stated that the August 7, 2001 letter from the employing establishment was incorrect, in that he did not lose consciousness. Appellant stated that on July 11, 2001 his legs gave out on him and he fell and twisted, breaking his leg as he turned. He also stated that as he started to fall he hit his nose on the panel dividers causing blood to gush out. In a letter dated September 26, 2001, appellant stated that his claim form was filled out by his supervisor, that he signed this form while he was in the hospital, that he did not have a chance to read what he was signing, and that he never stated that he had lost consciousness.

By letter dated October 24, 2001, the Office advised appellant that it needed additional evidence to make a determination regarding his claim, and requested that he describe in detail

how the injury occurred, the immediate effects, his condition between the date of injury and the date he first received medical attention, any similar condition before the injury and any prior claims for workers' compensation.

In a statement dated November 6, 2001, appellant answered the Office's questions, describing the injury as he had in his September 10, 2001 letter. Appellant stated that Dr. Jerome S. Fischer, who was treating him for diabetes, told him that he had nerve damage or neuropathy. Appellant then stated, with regard to the July 11, 2001 injury: "I did not feel any symptoms of low blood sugar before I fell that day. With the onset of nerve damage and the fact that my legs collapse easily with fluctuating low blood sugar, I have fallen a total of four times at work." Appellant described these falls, the last of which was the July 11, 2001 fall in the rest room.

By decision dated November 19, 2001, the Office found that "the medical evidence was not sufficient to establish that your condition was caused by the injury, as required by the Federal Employees' Compensation Act." After describing the evidence needed to establish causal relationship, this decision continued:

> "The initial evidence of file was insufficient to establish the relationship between the injury and the medical condition, because the doctor does state that the injury was not caused due to employment or aggravated due to employment.
>
> "You were advised of this by letter dated October 24, 2001, and afforded the opportunity to provide supportive evidence.
>
> "Additional evidence was not received. Evidence of record was not sufficient because [sic]
>
> "Therefore, based on these findings, your claim is denied as you have not met the requirements for establishing that your condition was caused by the [sic]"

The Board finds that the case is not in posture for a decision.

By indicating that his July 11, 2001 fall was due to low blood sugar, appellant's November 6, 2001 statement raises the possibility that he sustained an idiopathic fall, defined as a personal, nonoccupational pathology that causes an employee to collapse and to suffer injury upon striking the immediate supporting surface, with no intervention or contribution by any hazard or special condition of employment.[1] The Office's procedure manual states that, in such cases, the Office has the responsibility to obtain appropriate evidence, including evidence from the attending physician, showing whether the fall was due to an idiopathic condition and whether some condition or instrumentality of the work contributed to or intervened as a cause of the injury.[2]

[1] *John D. Williams*, 37 ECAB 238 (1985).

[2] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.9b (August 1992).

The Office's November 19, 2001 decision did not contain the findings of fact and statement of reasons required by the Office's regulations.[3] The Office's November 19, 2001 decision also inaccurately states that appellant was advised by letter dated October 24, 2001 of the insufficiency of the medical evidence. The Office's October 24, 2001 letter requested only factual information from appellant; it did not point out any insufficiency or request any medical evidence. Prior to its November 19, 2001 decision, the Office had not advised appellant of the medical evidence needed to establish his claim. Even the November 19, 2001 Office decision does not adequately describe the medical evidence needed, as this decision does not address the issue of whether appellant's July 11, 2001 fall was idiopathic.

The November 19, 2001 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to the Office for action consistent with this decision of the Board, including an appropriate decision on appellant's claim.

Dated, Washington, DC
September 16, 2002

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

[3] 20 C.F.R. § 10.126 states that an Office "decision shall contain findings of fact and a statement of reasons."