

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BETTY Y. ELDER and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Decatur, GA

*Docket No. 03-1112; Submitted on the Record;
Issued August 11, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that she sustained an injury in the performance of duty on July 2, 1999.

On September 20, 2002 appellant, then a 44-year-old medical technician, filed a traumatic injury claim alleging that she injured her lower back on July 2, 1999 while drawing a wheelchair patient. She did not stop work.

By letter dated October 15, 2002, the Office of Workers' Compensation Programs requested additional factual and medical information from appellant stating that the initial information submitted was insufficient to establish an injury on the above date. The Office requested that appellant explain the delay in filing her claim. She neither submitted medical evidence nor a statement in support of her claim for compensation.

In a decision dated February 10, 2003, the Office denied appellant's claim as the evidence was insufficient to establish that she sustained the alleged injury on July 2, 1999 as required by the Federal Employees' Compensation Act.¹ The Office found that the initial evidence of file was insufficient to establish that appellant experienced the claimed incident on July 2, 1999.

The Board finds that appellant has failed to establish that she sustained an injury on July 2, 1999 in the performance of duty, causally related to factors of her federal employment.

An employee seeking benefits under the Act 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 filed within the applicable time limitation of the Act, that an injury was sustained in the performance of duty as alleged and that

¹ 5 U.S.C. §§ 8101-8193.

any disability and/or specific condition for which compensation is claimed is 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 occupational disease.³

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another.

The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁴ In some traumatic injury cases this component can be established by an employee’s uncontroverted statement on the Form CA-1.⁵ An alleged work incident does not have to be confirmed by eyewitnesses in order to establish that an employee sustained an injury in the performance of duty, but the employee’s statement must be consistent with the surrounding facts and circumstances and her subsequent course of action.⁶ A consistent history of the injury as reported on medical reports, to the claimant’s supervisor and on the notice of injury can also be evidence of the occurrence of the incident.⁷ Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on an employee’s statements in determining whether a *prima facie* case has been established.⁸ Although an employee’s statement alleging that, an injury occurred at a given time and in a given manner, is of great probative value and will stand unless refuted by strong or persuasive evidence,⁹ an employee has not met this burden when there are inconsistencies in the evidence such as to cast serious doubt upon the validity of the claim.¹⁰

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or

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

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Rex A. Lenk*, 35 ECAB 253, 255 (1983).

⁷ *Id.* at 255-56.

⁸ *Dorothy M. Kelsey*, 32 ECAB 998 (1981).

⁹ *Robert A. Gregory*, 40 ECAB 478 (1989).

¹⁰ *Joseph A. Fournier*, 35 ECAB 1175 (1984).

incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.¹¹

In the present case, it was not disputed that appellant was drawing a wheelchair patient. However, the medical evidence is insufficient to establish that the incident caused an injury. Although appellant noted on the Form CA-1, notice of traumatic injury, that she was treated at the North Georgia Pain Clinic on July 3, 1999, she failed to submit any medical evidence in support of her claim. She did not submit any medical evidence which contained a complete and accurate history of the July 3, 1999 incident,¹² findings upon physical examination, diagnosis or a specific and rationalized opinion as to the causal relationship between appellant's employment and her injury.¹³

The person seeking compensation benefits has the burden of proof to establish the essential elements of the claim. Appellant has failed to do this. Her own unsupported assertion of an employment relationship is not proof of the fact. In a case such as this, proof must include supporting rationalized opinion of qualified medical experts, based on complete and accurate factual and medical backgrounds, establishing that the implicated incident caused or materially adversely affected the ailments producing the work disablement.¹⁴

The Office specifically advised appellant of the type of medical evidence necessary to establish her claim. The Office also requested specific medical information regarding appellant's condition. No medical evidence was submitted. The Board finds that appellant has not met her burden of proof with respect to her claim.

¹¹ See *Richard A. Weiss*, 47 ECAB 182 (1995); *John M. Tornello*, 35 ECAB 234 (1983).

¹² See *Cowan Mullins*, 8 ECAB 155, 158 (1955) (where the Board held that a medical opinion based on an incomplete history was insufficient to establish causal relationship).

¹³ See *Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

¹⁴ See *Margaret A. Donnelly*, 15 ECAB 40 (1963).

The decision of the Office of Workers' Compensation Programs dated February 10, 2003 is affirmed.

Dated, Washington, DC
August 11, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member