

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GILBERT A. MARTINEZ and DEPARTMENT OF HEALTH & HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION, OFFICE OF HEARINGS & APPEALS, Salt Lake City, UT

*Docket No. 03-1469; Submitted on the Record;
Issued August 7, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained an injury on August 1, 2002 in the performance of duty.

On August 29, 2002 appellant, then a 55-year-old administrative law judge, filed a traumatic injury claim alleging that on August 1, 2002 he sustained an anxiety-related disorder and a heart disorder (atrial tachycardia) while presiding over a stressful hearing. He indicated that Dr. Keith Pearson, a medical expert witness attending a hearing, examined him and took him to the hospital.

By letter dated September 9, 2002, the Office of Workers' Compensation Programs advised appellant that he needed to submit medical evidence in support of his claim, including a comprehensive medical report from his treating physician containing a diagnosis of his condition and a rationalized explanation as to how the condition was causally related to factors of his employment.

On November 7, 2002 appellant indicated that Dr. Pearson would submit a report regarding the August 1, 2002 incident.¹

By decision dated February 18, 2003, the Office denied appellant's claim on the grounds that the evidence of record did not establish that he sustained a medical condition as a result of the August 1, 2002 employment incident.

The Board finds that appellant failed to meet his burden of proof to establish that he sustained an injury on August 1, 2002 in the performance of duty.

¹ With his November 7, 2002 letter, appellant submitted only copies of medical bills regarding the incident on August 1, 2002.

An employee seeking benefits under the Federal Employees' Compensation Act² 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 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.³

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be established 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 An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or medical condition was related to the employment incident. As the Office did not dispute that the August 1, 2002 employment incident occurred at the time, place and in the manner alleged, the remaining issue is whether the alleged injury was caused by the employment incident.

In order to satisfy his or her burden of proof, an employee must submit a physician's rationalized medical opinion on the issue of whether the alleged injury was caused by the employment incident.⁶

In this case, appellant failed to provide any medical evidence on the issue of causal relationship prior to the issuance of the Office's February 18, 2003 decision.⁷ Therefore, he did not meet his burden of proof in establishing that he sustained an injury on August 1, 2002 in the performance of duty.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

⁵ *Shirley A. Temple*, 48 ECAB 404 (1997).

⁶ *Gary L. Fowler*, 45 ECAB 365 (1994).

⁷ As noted above, the record shows that the Office advised appellant by letter dated September 9, 2002 that he needed to submit medical evidence in support of his claim but none was forthcoming.

The February 18, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
August 7, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member