U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BRIAN L. HAMILTON and DEPARTMENT OF THE AIR FORCE, SOUTH DAKOTA AIR NATIONAL GUARD, Sioux Falls, SD

Docket No. 03-1708; Submitted on the Record;
Issued August 8, 2003

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO, DAVID S. GERSON

The issue is whether appellant has established that he sustained a skin condition in the performance of duty.

On November 19, 2002 appellant, then a 30-year-old fuel systems mechanic, filed a notice of traumatic injury and claim for continuation of pay/compensation, Form CA-1, alleging that on May 6, 1992 jet fuel "came into contact with hand and now have contact eczema." A witness provided a statement on the claim form, reporting that "[appellant] and several coworkers in the shop have complained of itchy skin for some time now." She also stated that she had "seen [appellant's] skin at its worst -- red, cracked, sore and weeping. When he went to the doctor it was confirmed that he has eczema as a result from contact with chemicals at work." On the reverse of the form, appellant's supervisor noted that appellant was injured in the performance of duty, but did not stop working.

In a December 2, 2002 letter, the Office of Workers' Compensation Programs advised appellant that the information submitted in his claim was not sufficient to determine whether appellant was eligible for benefits under the Federal Employees' Compensation Act.[1] The Office requested certain factual and medical information. In particular, appellant was directed to provide a comprehensive medical report and a physician's opinion, with medical reasons for such opinion, as to how appellant's work caused or aggravated the claimed injury.

In response to the Office's letter, appellant provided factual information requested by the Office. No medical evidence was submitted.

By decision dated January 10, 2003, the Office denied appellant's claim. The Office found that, while appellant experienced the claimed employment factor, he failed to provide

[1] 5 U.S.C. §§ 8101-8193.

medical evidence sufficient to establish a relationship between the May 6, 1992 work incident and his medical condition.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

An employee seeking benefits under the Act 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 essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an 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]

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 incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.[5]

In the instant case, it is not disputed that the claimed incident occurred as alleged. As a part of his job as a fuel systems mechanic, appellant would come into contact with jet fuel. However, appellant has not established the second component of fact of injury as there is no medical evidence to establish that he sustained an injury to his hands on May 6, 1992 due to the employment incident. On December 2, 2002 the Office advised appellant of the evidence needed to establish his claim. However, such evidence was not submitted prior to the Office's January 10, 2003 decision.[6] At the time of its January 10, 2003 decision, the Office had no

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

[3] *Daniel J. Overfield,* 42 ECAB 718, 721 (1991); *Victor J. Woodhams,* 41 ECAB 345 (1989).

[4] *Elaine Pendleton, supra* note 2.

[5] *See* 20 C.F.R. § 10.115(e); *Gary Fowler,* 45 ECAB 365 (1994).

[6] On appeal, appellant submitted medical evidence. The Board's jurisdiction is limited to evidence which was before the Office at the time it rendered the final decision. Inasmuch as this evidence was not considered by the Office, it cannot be considered on review by the Board. 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting such evidence to the Office as part of a reconsideration request.

medical evidence before it which diagnosed a condition and supported that the condition was caused or aggravated by the May 6, 1992 employment incident.

Consequently, appellant has not met his burden of proof in establishing his claim.

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

Dated, Washington, DC
August 8, 2003

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member