U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RONALD G. ERICKSON and DEPARTMENT OF THE ARMY, ASF HOUSTON, Conroe, TX

Docket No. 03-358; Submitted on the Record;
Issued February 28, 2003

DECISION and ORDER

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

The issue is whether appellant met his burden of proof in establishing that he sustained an injury in the performance of duty on September 6, 2001, as alleged.

On September 6, 2001 appellant, then a 29-year-old aircraft mechanic, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that on that date he strained his lower abdomen in the course of his federal employment.

By letter dated October 9, 2001, the Office of Workers' Compensation Programs requested that appellant submit further information. Additional evidence was not received. By decision dated November 8, 2001, the Office denied appellant's claim as it found that he had not met the requirements for establishing that he sustained an injury as alleged.

By letter dated July 24, 2002, appellant requested reconsideration. Attached to his request, appellant submitted answers to questions asked by the Office. He indicated that the injury occurred when he was using a large wrench and was removing a nut from an aircraft component. Appellant noted that this required him to twist his torso to reach the nut and that after he "straightened up," he felt a pulling/pinching in his lower stomach area. Appellant submitted notes from Conroe Regional Medical Center indicating that appellant was seen by Dr. Jay Lance Kovar, a Board-certified specialist in emergency medicine, on September 6, 2001 complaining of "right groin pain status post pulling heavy bolt." The rest of the report is handwritten and largely illegible, although it appears to be instructions from the doctor with regard to appellant's follow-up care.

By decision dated October 18, 2002, the Office conducted a merit review of appellant's claim, indicated that it now accepted the September 6, 2001 incident, but noted that there was insufficient medical evidence to support causal relationship.

The Board finds that the evidence of record fails to support that appellant sustained an injury in the performance of duty on September 6, 2001, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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."[2] These are the essential elements of each 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 his 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 addressed 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 Office found that appellant had met this criteria. The second component is whether the employment incident caused a person's injury and generally can only be established 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 causal relationship.[5] 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 instant case, the only medical evidence submitted by appellant were records from his emergency room visit on the date of the incident, September 6, 2001. These records list the fact that appellant was complaining of right groin pain, but do not list a medical diagnosis made in connection with this pain. Furthermore, nowhere in these medical records does a physician specifically mention that the cause of appellant's pain was a work injury of that date, although it is noted that appellant stated that he injured himself pulling a heavy bolt.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor his belief that his condition was caused, precipitated or aggravated by his employment is

[1] 5 U.S.C. §§ 8101-8193.

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

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

[4] *Caroline Thomas*, 51 ECAB 451, 455 (2000).

[5] *Duane B. Harris*, 49 ECAB 170, 173 (1997).

[6] *Id.*

sufficient to establish causal relationship.[7] Causal relationship must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office therefore properly denied appellant's claim for compensation.

The decisions of the Office of Workers' Compensation Programs dated October 18, 2002 and November 8, 2001 are hereby affirmed.[8]

Dated, Washington, DC
February 28, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

[7] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[8] Appellant submitted new evidence with his appeal; however, the Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c). Appellant may submit the new evidence to the Office with a request for reconsideration under 5 U.S.C. § 8128.