U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ERVIN A. BROWN and U.S. POSTAL SERVICE,
POST OFFICE, Florence, AL

Docket No. 03-1864; Submitted on the Record;
Issued October 16, 2003

DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that he sustained an injury in the performance of duty on December 15, 2001.

On December 31, 2001 appellant, then a 49-year-old letter carrier, filed a notice of traumatic injury and claim for compensation. He indicated that on December 15, 2001 he hurt his neck when he hit his head on the top of a long-life postal vehicle door while loading mail. By letter dated June 5, 2002, the Office of Workers' Compensation Programs requested that appellant submit medical evidence regarding his injury. The Office received no medical evidence in support of the claim.

In a decision dated July 15, 2002, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish an injury causally related to the employment incident.

On appeal appellant alleges, in part, that he did not receive notice of the July 15, 2002 decision until June 7, 2003 and that he was not been afforded the opportunity to submit any information on his own behalf.[1]

The Board finds that appellant has not met his burden of proof to establish an employment injury on December 15, 2001.

[1] The Board notes that both the June 5, 2002 information request letter and the July 15, 2002 Office decision were addressed to appellant's address of record. Under the mailbox rule, in the absence of evidence to the contrary, it is presumed that a notice properly addressed and mailed in the ordinary course of business was received; *see Larry L. Hill*, 42 ECAB 596 (1991).

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing that he or she sustained an injury while in the performance of duty.[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 that is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[4]

The medical evidence required to establish causal relationship is usually rationalized medical evidence. 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.[5]

In this case, the Office accepted that appellant actually experienced the claimed event alleged to have occurred. However, he did not submit any medical evidence to support that the claimed event was caused by specified factors of his federal employment. Appellant did not submit any evidence in support of his claim beyond the claim form alleging a traumatic injury, despite the Office's June 5, 2002 request for additional documentation. As he failed to submit the necessary medical opinion evidence, he failed to meet his burden of proof and the Office properly denied his claim.[6]

[2] 5 U.S.C. §§ 8101-8193.

[3] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10. 115.

[4] *See John J. Carlone*, 41 ECAB 354, 357 (1989).

[5] *Id*. at 357.

[6] With his appeal appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting new evidence to the Office and requesting reconsideration pursuant to 5 U.S.C. § 8128(a).

The decision of the Office of Workers' Compensation Programs dated July 15, 2002 is affirmed.

Dated, Washington, DC
October 16, 2003

Alec J. Koromilas
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member