

FACTUAL HISTORY

On September 26, 2003 appellant, a 31-year-old airway transportation system specialist, filed a traumatic injury claim for smoke inhalation. He stated that there was an electrical fire in the main distribution panel in the radar building on September 26, 2003 and he inhaled smoke while attempting to extinguish the fire. Appellant did not submit any medical evidence with his claim.

On February 24, 2004 the Office advised appellant of the need for medical evidence to establish his claim for injury due to smoke inhalation. The Office afforded appellant 30 days within which to submit the requested medical information. Appellant did not respond in a timely fashion.

By decision dated March 25, 2004, the Office denied appellant's claim on the basis that he failed to establish that he sustained an injury in the performance of duty on September 26, 2003. The Office found that the evidence supported that the claimed event occurred; however, there was no medical evidence that provided a diagnosis that could be connected to the September 26, 2003 employment incident.

LEGAL PRECEDENT

In determining whether an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Fact of injury consists of two components that 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.² The second component is whether the employment incident caused a personal injury.³ Generally, this latter requirement is met by submitting medical evidence that demonstrates a causal relationship between the diagnosed condition and the claimed employment exposure.⁴

ANALYSIS

Appellant's exposure to smoke from an electrical fire on September 26, 2003 is uncontested. The issue, however, is whether he sustained a medical condition as a result of his employment exposure. Appellant did not initially submit any medical evidence that was

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

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *See Gary J. Watling*, 52 ECAB 278, 279-80 (2001). A physician's opinion on the issue of causal relationship must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id.*

received by the Office prior to the issuance of its March 25, 2004 decision.⁵ The record at the time the Office issued its March 25, 2004 merit decision did not include a rationalized medical opinion specifically diagnosing a condition attributable to appellant's September 26, 2003 employment incident. As there was no medical evidence explaining how the September 26, 2003 employment incident caused or aggravated a specific medical condition, appellant failed to meet his burden of demonstrating that he sustained an injury in the performance of duty. Accordingly, the Office properly denied appellant's claim.

CONCLUSION

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty on September 26, 2003.

ORDER

IT IS HEREBY ORDERED THAT the March 25, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 25, 2004
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

⁵ As previously indicated, the Board is precluded from reviewing new evidence for the first time on appeal. 20 C.F.R. § 501.2(c). This decision of the Board does not preclude appellant from requesting that the Office consider such evidence as part of a reconsideration request before the Office.