

**United States Department of Labor
Employees' Compensation Appeals Board**

WAYNE ROGER PETERSON, Appellant)	
)	
and)	Docket No. 04-1225
)	Issued: September 13, 2004
U.S. POSTAL SERVICE, POST OFFICE,)	
Bedford Park, IL, Employer)	
)	

Appearances:
Wayne Roger Peterson, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chairman
DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member

JURISDICTION

On April 6, 2004 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs dated February 10, 2004, which denied his injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue on appeal is whether appellant has met his burden of proof to establish that he sustained an injury in the performance of duty.

FACTUAL HISTORY

On December 26, 2003 appellant, then a 43-year-old letter carrier, filed a traumatic injury claim alleging that on December 24, 2003 he sprained his left ankle while walking his route. Appellant stopped work on December 24, 2003 and returned on December 29, 2003.

In a letter dated January 5, 2004, the Office advised appellant that the evidence submitted was insufficient to establish his claim. The Office requested that he submit additional supportive factual and medical evidence. A copy of the letter was also provided to the employing establishment.

The Office subsequently received a duty status report dated January 2, 2004, from Dr. Peter MacEntee, a Board-certified family practitioner, in which he advised that appellant's work be modified and indicated that appellant could return to full duty on January 10, 2004. He did not provide a diagnosis. Additionally, the Office received unsigned discharge instructions which contained a diagnosis of left ankle sprain, a routing slip from the employing establishment, a physician designation form, correspondence and instructions from the employing establishment and a December 20, 2003 disability certificate in which Dr. R. Loya, Board-certified in emergency medicine, indicated that appellant should not place any weight on the left leg for seven days.

By decision dated February 10, 2004, the Office denied appellant's claim. The Office found that the evidence was insufficient to establish that the events occurred as alleged. Furthermore, the Office denied appellant's claim on the grounds that there was no medical evidence that provided a diagnosis which could be connected to the claimed events.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.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.⁴ 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.⁵ The second component is whether the employment incident caused a personal injury and generally this can

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ See *Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 2.

⁴ *Neal C. Evins*, 48 ECAB 252 (1996).

⁵ *Michael W. Hicks*, 50 ECAB 325, 328 (1999).

be established only by medical evidence.⁶ An employee may establish that an injury occurred in the performance of duty but fail to establish that his or her disability or resulting condition was causally related to the injury.⁷

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 the belief that the condition was caused, precipitated or aggravated by his employment is sufficient to establish a causal relationship.⁸ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁹ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.¹⁰ 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.¹¹

ANALYSIS

In the present case, the Board finds that appellant experienced the employment incident at the time, place and in the manner alleged. The factual accounts of the circumstances of the fall were detailed, consistent and were contemporaneous with the incident. Also, the employing establishment did not contest that the incident occurred at the time, place and in the manner alleged.¹² The medical evidence in this case, however, is insufficient to establish causal relationship between a diagnosed condition and the December 24, 2003 incident. For example, Dr. MacEntee in his January 2, 2004 duty status report, provided light-duty requirements and advised that appellant could return to full duty on January 11, 2004. However, he did not provide a diagnosis or a reply in response to a form questions as to whether appellant's condition was caused or aggravated by his employment. His report was insufficient without further explanation or rationale, to establish causal relationship.¹³ Dr. Loya provided a December 30, 2003 disability certificate which advised no weight bearing on the left; however, this report also lacked a diagnosis. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁴

⁶ 5 U.S.C. § 8101(5); 20 C.F.R. § 10.5(ee) (1999) (defining injury).

⁷ *Earl David Seal*, 49 ECAB 152, 153 (1997); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2(a) (June 1995).

⁸ *Robert G. Morris*, 48 ECAB 238, 239 (1996).

⁹ *Id.*

¹⁰ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹¹ *Id.*

¹² *See Pearlene Morton*, 52 ECAB 493 (2001).

¹³ *Barbara J. Williams*, 40 ECAB 649 (1989).

¹⁴ *Michael E. Smith*, *supra* note 3.

The doctor did not offer a rationalized medical opinion as to how appellant's employment caused or aggravated his condition.¹⁵

The record also contained standardized form reports which did not contain any diagnosis or description of clinical findings and some of which were unsigned. Consequently, these reports were of no probative value and did not establish appellant's occupational illness claim as it cannot be discerned whether a physician signed the reports.¹⁶

None of the evidence supports that appellant sustained an injury on December 24, 2003. Absent medical evidence to establish that his medical condition was causally related to the December 24, 2003 work-related incident, appellant failed to carry his burden of proof.

CONCLUSION

Under the circumstances described above, the Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

¹⁵ The opinion of the physician must be based upon 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. The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion. *See James Mack*, 43 ECAB 321 (1991).

¹⁶ *See Merton J. Sills*, 39 ECAB 572 (1988); *see also Sheila A. Johnson*, 46 ECAB 323 (1994).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 10, 2004 is hereby affirmed.¹⁷

Issued: September 13, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

¹⁷ The Board notes that appellant submitted additional evidence to support her claim. The Board's jurisdiction, however, is limited to reviewing the evidence that was before the Office at the time of its final decision. The Board therefore has no jurisdiction to review any evidence submitted to the record after the Office's February 10, 2004 decision. 5 U.S.C. § 501.2(c).