

By letter dated October 27, 2003, the Office requested that appellant submit further information. By letter dated November 13, 2003, he indicated that he felt chest pains when he was working with his supervisor on a high lift. In a July 31, 2003 medical report, Dr. Mehmet B. Ismailoglu, an internist, indicated that appellant had chest pains at work on July 4, 2003 and was admitted that day to Battle Creek Health Systems with a diagnosis of an acute myocardial infarction. On July 6, 2003 Dr. Theodore S. Varas, an osteopath, performed a cardiac catheterization and coronary arteriography and ventriculography; intravascular ultrasound evaluation of the left main coronary artery; stent placement of the circumflex coronary artery; and stent placement of the right coronary artery. In a report dated July 31, 2003, Dr. Varas concluded that appellant had a stable stent placement and that he currently had no chest discomfort. In an August 11, 2003 report, he indicated that appellant had a myocardial infarction on July 4, 2003. He noted:

“[Appellant] indicated that he developed his chest discomfort while engaging in moderate physical activity while at work. The physical activity certainly may have aggravated an underlying cardiac condition resulting in his symptoms which required him to go to the emergency room.”

In a November 21, 2003 report, Dr. S. Virupannayar, an internist for the employing establishment, opined that appellant’s heart attack was in the natural course of coronary artery ailment and was not the outcome of his routine duties of employment. He noted that review of medical records indicated that appellant had significant and widespread coronary artery disease that required four-stent placement. But, he noted, “Such a degree of disease could certainly be aggravated by any minor activities whether at work or at home.” Dr. Virupannayar also noted that at the time appellant reported his chest pain he was not working in any unusual conditions or under any unusual stress or strain, rather he was standing on a lift.

By decision dated November 28, 2003, the Office denied appellant’s claim for compensation as it found that he had not established that he was injured in the performance of duty. The Office further indicated that, even if injury in the performance of duty could be established, the medical evidence would not be sufficient to establish a causal relationship between the coronary artery ailment and the work duties of “July 3, 2003.”

On March 10, 2004 appellant requested reconsideration and submitted a statement by his supervisor indicating that on July 4, 2003 appellant was working with him to “clean up a tree.” The supervisor indicated that appellant worked for about one and one-half hours using a small chainsaw to cut the tree, after which the boom lift broke down and needed to be repaired. During this time he was asked to get some barricades in order to block the road. About one hour later, the supervisor indicated that they returned to work on the tree and that after one-half hour of cutting the small chainsaw broke and appellant had to use a bigger saw. A few minutes later appellant indicated that he was having chest pains, so the supervisor took the saw from him and lowered the boom back to the ground where the firemen started working on him. A December 15, 2003 statement was also submitted by a captain for the fire department, who indicated that the department checked appellant on July 4, 2003 after he descended from cutting the tree and transported him so that the medical staff could work on him.

By decision dated June 25, 2004, the Office modified its earlier decision to find that appellant failed to establish a causal relationship between his work duties on July 4, 2003 and his heart condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act 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 filed within the applicable time limitation 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.¹ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.²

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.³ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁴

An award of compensation may not be based on surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between his condition and his employment.⁵ To establish causal relationship, appellant must submit a physician's report in which the physician reviews the factors of employment identified by him as causing his condition and taking these factors into consideration as well as findings upon examination and appellant's medical history, states whether these employment factors caused or aggravated his diagnosed condition.⁶ There is no necessity to show special exposure or unusual conditions of employment in factors producing disability.⁷

¹ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

² *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

³ See *Tracey P. Spillane*, 54 ECAB ____ (Docket No. 02-2190, issued June 12, 2003); *Deborah L. Beatty*, 54 ECAB ____ Docket No. 02-2294, issued January 15, 2003).

⁴ *Id.*

⁵ *Manuel Gill*, 52 ECAB 282, 287 (2001).

⁶ *Calvin E. King*, 51 ECAB 394, 401 (2000).

⁷ See *Mary Joan Coppolino*, 43 ECAB 988 (1992).

ANALYSIS

In the instant case, appellant has not submitted medical evidence sufficient to establish a causal relationship between the events of his employment on July 4, 2003 and his myocardial infarction. Although Dr. Ismailoglu indicated that appellant experienced chest pains while at work on July 4, 2003 he did not explain how appellant's work caused these pains. The fact that appellant had chest pains at work does not, by itself, establish a causal relationship. The only report of Dr. Varas, appellant's treating osteopath, that mentions a possible causal relationship is in an August 11, 2003 report. He indicated that appellant's physical activity at work "certainly may have aggravated an underlying cardiac condition resulting in his symptoms which required him to go to the emergency room." However, Dr. Varas' opinion that these conditions "may have" caused the myocardial infarction is too speculative to establish a causal relationship.⁸ Dr. Virupannayar, the physician for the employing establishment, indicated that appellant's heart attack was "in the natural course of coronary artery ailment and was not the outcome of his routine duties of employment." Therefore, his opinion does not establish an employment relationship.⁹ As no physician provided a well-rationalized opinion definitively linking appellant's myocardial infarction to his federal employment, appellant has not established that his myocardial infarction was related to his federal employment and the Office properly denied the claim.

CONCLUSION

The Office properly denied appellant's claim as he failed to establish that he sustained an injury in the performance of duty on July 4, 2003.

⁸ *Ricky E. Storms*, 52 ECAB 349 (2001).

⁹ Dr. Virupannayar indicated that appellant was not working in any unusual conditions or under any unusual stress or strain at the time of the injury. However, the Board notes that it is not necessary that appellant's injury be the result of any unusual condition of employment. See *Mary Joan Coppolino*, *supra* n. 7. Furthermore, the evidence indicates that appellant was cutting down a tree when he experienced tightness in his chest; accordingly Dr. Virupannayar may not have had an accurate history of appellant's work exposure, as he reported that appellant was standing on a lift when he experienced chest pain. Nevertheless, in light of the Board's conclusion that no physician provided a well-rationalized opinion definitively linking appellant's myocardial infarction to his federal employment, any factual inaccuracies made by Dr. Virupannayar in reaching his conclusion that appellant's coronary artery condition was not the result of his employment is harmless error.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated June 25, 2004 and November 28, 2003 are hereby affirmed.

Issued: April 14, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member