

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

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**JAMES A. PARKER, Appellant**

**and**

**DEPARTMENT OF THE NAVY, NORFOLK  
NAVAL SHIPYARD, Portsmouth, VA, Employer**

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**Docket No. 05-965  
Issued: August 3, 2005**

*Appearances:*  
*James A. Parker, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
DAVID S. GERSON, Judge

**JURISDICTION**

On August 16, 2004 appellant filed a timely appeal from the May 18, 2004 merit decision of the Office of Workers' Compensation Programs, which denied his claim for compensation for failure to establish the element of causal relationship. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the Office's May 18, 2004 decision and the evidence that was before the Office at that time. The Board has no jurisdiction to review evidence submitted after the Office's May 18, 2004 decision.

**ISSUE**

The issue is whether appellant sustained an injury in the performance of duty on March 2, 2004.

**FACTUAL HISTORY**

On April 5, 2004 appellant, then a 49-year-old insulator mechanic, filed a claim alleging that he sustained a severe swelling of his right hand on March 2, 2004 while in the performance of duty: "I was packing rock wool in the O<sub>2</sub>N<sub>2</sub> plant with a stick and I hurt my right hand and it

got infected.” In an attached statement, he again described his injury: “I was packing rock wool into the O<sub>2</sub>N<sub>2</sub> plant on the ship. We were using sticks to beat the wool into place and I punctured my right hand while doing it and it got infected real bad and I had to have surgery.”

The record shows that appellant was admitted to the Maryview Medical Center on March 8, 2004, where Dr. Wayne T. Johnson, an orthopedic surgeon, reported the following history:

“I have been asked to see [appellant], who is a 49-year-old gentleman, who gives a history of having a swollen right hand for approximately five to seven days. It began after working onboard ship and doing what sounds to be some compression of some fiberglass by using a tamp and tamping it into place. He was also doing some crawling on his hands and knees. Subsequent to this he began noticing pain and swelling of the right hand. He is right hand dominant. He denies any numbness or paresthesias. He denies any previous problems with the right hand. He was seen in the Emergency Room on Sunday, approximately three to four days after the onset of the swelling and was given Keflex. This did not resolve the swelling, and he was recently admitted and placed on Ancef.”

Dr. Johnson reported that appellant had a cellulitis that warranted continued monitoring. On March 12, 2004 he surgically drained appellant’s right hand hypothenar eminence abscess. Appellant was discharged on March 16, 2004 with the following history:

“The patient is a 49-year-old black male, with a past medical history of diabetes type 2, hypertension and hypercholesterolemia, who presented with a swollen right hand [for] six days. He had been working with fiberglass out to sea, and believed he may have been stuck by fiberglass. He denied any blunt trauma or any obvious stab wounds at the time of injury. Swelling and pain began eight days prior to admission. The hand was very warm, erythematous and tender to palpation, approximately 8/10. There were systemic fevers. Pain was exacerbated by right hand use, and relieved by Vicodin. He had received Ancef and Keflex for the right hand, with no improvement. He was recently seen at Portsmouth Family Medicine PAC and referred back to the emergency room for admission.”

Appellant’s discharge diagnosis included right hand cellulitis, methicillin-resistant staphylococcus aureus (MRSA), status post incision and drainage on March 12, 2004.

Appellant sought medical attention from the employing establishment branch medical center on April 5, 2004. He gave the following history: “Packing rock wool in the O<sub>2</sub>N<sub>2</sub> plant with a stick had on safety glasses. Puncture wound of the hand -- working on the USS Truman during seas trials on March 2, [20]04, at 1600 [hours].” Objective findings included a swollen right hand, “finger swollen, not able to make a fist.” On April 6, 2004 appellant’s family practitioner, whose name is illegible, reported the history of injury as “abscess right hand.” The physician diagnosed right hand cellulitis/abscess MRSA and indicated with an affirmative mark that the condition was caused or aggravated by an employment activity: “by history working with fiberglass -- see discharge summary.”

In a decision dated May 18, 2004, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish that he sustained an injury due to the claimed employment factor. The Office noted that the medical evidence did not clearly address the history or etiology of the alleged right hand condition, nor did it provide specific work factors to which the alleged right hand condition could be attributed. The Office found that the evidence did not establish that a right hand condition was diagnosed in connection with employment factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.<sup>2</sup>

Causal relationship is a medical issue,<sup>3</sup> and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>4</sup> must be one of reasonable medical certainty,<sup>5</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.<sup>6</sup>

### **ANALYSIS**

In its May 18, 2004 decision, the Office appeared to accept that appellant experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. There is no reason to doubt that on May 2, 2004 appellant was packing rock wool into the O<sub>2</sub>N<sub>2</sub> plant onboard the USS Truman and using a stick to beat the wool into place. But what remains unclear is how appellant hurt his right hand. In the statement attached to his claim form, he stated that he punctured his right hand while performing this task, and this is reflected in the April 5, 2004 treatment note from the employing establishment branch medical center. Earlier

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> See generally *John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15), 10.5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

<sup>3</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>4</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>5</sup> See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>6</sup> See *William E. Enright*, 31 ECAB 426, 430 (1980).

medical records, however, reported no history or finding of a puncture wound. In his March 8, 2004 report, less than a week after the incident, Dr. Johnson noted that appellant was compressing some fiberglass with a tamp and doing some crawling on his hands and knees when “subsequent to this he began noticing pain and swelling of the right hand.” Dr. Johnson’s findings on physical examination gave no indication that appellant had a puncture wound. Moreover, the March 16, 2004 discharge summary stated that appellant denied any blunt trauma and any obvious stab wound. The summary noted that appellant believed he may have been stuck by fiberglass.

So while the evidence establishes that appellant was packing rock wool in the performance of duty on March 2, 2004, it appears he sustained no blunt trauma or obvious stab wound to the right hand. Instead, appellant speculates that he may have been stuck by fiberglass. The evidence of record does not establish this to be a matter of fact, but it remains a possibility.

The problem with appellant’s claim, and the reason the Office denied compensation benefits, is that the medical opinion evidence does not establish a causal relationship between what happened at work on March 2, 2004 and appellant’s diagnosed medical condition and need for surgery. The only medical opinion supporting appellant’s claim of an employment injury on March 2, 2004 is his physician’s April 6, 2004 form report. On this form his family practitioner indicated with an affirmative mark that appellant’s cellulitis or abscess was caused or aggravated by an employment activity because appellant, by history, was working with fiberglass. Although this is generally supportive of appellant’s claim, it is of little probative value because appellant’s physician did not discuss how working with fiberglass caused the diagnosed condition. The Board has held that medical conclusions unsupported by rationale are of little probative value.<sup>7</sup> Without a clear medical explanation from appellant’s physician of how his work activities on March 2, 2004 caused his diagnosed cellulitis or right hand hypothenar eminence abscess, the evidence in this case does not establish the essential element of causal relationship. The Board will therefore affirm the Office’s May 18, 2004 decision denying compensation benefits.

### CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty on March 2, 2004. The medical opinion evidence does not sufficiently discuss to a reasonable medical certainty how appellant’s work activities on March 2, 2004 caused his diagnosed right hand condition.

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<sup>7</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 18, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 3, 2005  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board