

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

ARTHUR C. FIELDS, Appellant

and

**DEPARTMENT OF AGRICULTURE, FOOD
SAFETY & INSPECTION SERVICE,
Marshville, NC, Employer**

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**Docket No. 05-663
Issued: June 8, 2005**

Appearances:
Arthur C. Fields, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On January 24, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' June 7 and October 19, 2004 merit decisions, denying his traumatic injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty on March 18, 2004.

FACTUAL HISTORY

On March 24, 2004 appellant, then a 57-year-old food inspector, filed a traumatic injury claim alleging that he sustained an injury at work on March 18, 2004. Regarding the cause of the injury, he stated, "Hot water line blew when water turned to steam. Barely escaped being burned. From being frightened my blood pressure spiked and caused me to become faint and

had to get assistance.” Appellant stopped work on March 18, 2004 and returned to work on March 22, 2004.

Appellant submitted two March 18, 2004 notes in which Dr. Harold M. Miller, an attending physician Board-certified in emergency medicine, stated that he was unable to work on March 18 and 19, 2004. He noted that appellant complained of dizziness and indicated that his blood pressure should be checked in five days. In a note dated March 23, 2004, Dr. Sara Beyer, an attending Board-certified family practitioner, stated that appellant had been under her care since March 23, 2004 and that he could return to work on March 24, 2004.

By letter dated April 27, 2004, the Office requested that appellant submit additional factual and medical evidence in support of his claim.

Appellant submitted a March 18, 2004 note in which Dr. Miller indicated that he had high blood pressure and vertigo. The record was also supplemented to include several notes from March 2004, in which nurses described their treatment of his blood pressure and dizziness complaints.

By decision dated June 7, 2004, the Office denied appellant’s claim that he sustained an injury in the performance of duty on March 18, 2004. The Office accepted that an employment incident occurred when a hot water line blew at work on March 18, 2004, but found that he did not submit sufficient medical evidence to establish that he sustained an injury due to this incident.

Appellant requested reconsideration and submitted a March 23, 2004 report in which Dr. Beyer indicated that he reported experiencing a “stressful explosion at work” and having a “blood pressure spike” at work.¹ She noted that a “hypertensive crisis” needed to be ruled out and stated, “Most likely an acute reaction to fear of nearly getting burned by blown water line.” The results of a March 18, 2004 computerized tomography scan of appellant’s head revealed normal results.²

By decision dated October 19, 2004, the Office affirmed the June 7, 2004 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act³ has the burden of establishing the essential elements of his 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

¹ She also noted that appellant also complained of blurry vision, floaters and weakness.

² Appellant also submitted a March 18, 2004 progress note describing his complaints, but it is unclear whether this report was completed by a physician.

³ 5 U.S.C. §§ 8101-8193.

compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the “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 actually experienced the employment incident at the time, place and in the manner alleged.⁶ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷ The term “injury” as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.⁸

ANALYSIS

Appellant has established that an employment incident occurred when a hot water line blew at work on March 18, 2004, but he did not submit sufficient medical evidence to show that he sustained an injury due to the incident.

Appellant submitted a March 23, 2004 report in which Dr. Beyer, an attending Board-certified family practitioner, noted that he reported experiencing a “stressful explosion at work” and having a “blood pressure spike” at work. She indicated that a “hypertensive crisis” needed to be ruled out and stated, “Most likely an acute reaction to fear of nearly getting burned by blown water line.” This report is of limited probative value on the relevant issue of the present case, in that it does not contain a firm diagnosis and the opinion on causal relationship which is equivocal.⁹ Dr. Beyer did not provide a clear diagnosis of appellant’s condition and her comment regarding the blown water line and its possible relation to his condition is vague in nature. Dr. Beyer did not describe the March 18, 2004 employment incident in any detail or explain how it could have been competent to cause a diagnosed medical condition.

Appellant submitted two March 18, 2004 notes in which Dr. Miller, an attending physician Board-certified in emergency medicine, stated that he was unable to work on March 18 and 19, 2004. In a March 18, 2004 note, Dr. Miller indicated that appellant had high blood

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

⁶ *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

⁷ *John J. Carlone*, 41 ECAB 354, 356-57 (1989); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

⁸ *Elaine Pendleton*, *supra* note 4; 20 C.F.R. § 10.5(a)(14).

⁹ See *Leonard J. O’Keefe*, 14 ECAB 42, 48 (1962); *James P. Reed*, 9 ECAB 193, 195 (1956) (finding that an opinion which is equivocal or speculative is of limited probative value regarding the issue of causal relationship).

pressure and vertigo, but he did not indicate that he had a diagnosed condition or disability due to the March 18, 2004 employment injury. The Board has held that the fact that a condition manifests itself or worsens during a period of employment¹⁰ does not raise an inference of causal relationship between a claimed condition and employment factors.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty on March 18, 2004.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' October 19 and June 7, 2004 decisions are affirmed.

Issued: June 8, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

¹⁰ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).