United States Department of Labor
Employees' Compensation Appeals Board

TIA T. HARRIS, Appellant	)	
and	)	**Docket No. 03-1734**
	)	**Issued: March 9, 2005**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Baltimore, MD, Employer	)	

Appearances:
Tia T. Harris, pro se
Miriam D. Ozur, Esq., for the Director

Oral Argument February 22, 2005

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Member
WILLIE T.C. THOMAS, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On June 23, 2003 appellant filed a timely appeal from decisions of the Office of Workers' Compensation Programs dated March 3 and June 4, 2003, which denied her claim. Under 20 C.F.R. §§ 501.2(c), 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained an injury causally related to factors of employment.

FACTUAL HISTORY

On January 6, 2003 appellant, then a 29-year-old recreation assistant, filed a Form CA-1, traumatic injury claim alleging that on that date she was hit in the nose and mouth with the back of a resident's hand. She stopped work and returned to full duty on January 14, 2003. In support of her claim, appellant submitted disability statements dated January 7 and 13, 2003 in which Dr. Thomas Ghiorzi, a Board-certified internist, advised that she should not work from January 7

to 14, 2003. In a witness statement dated January 6, 2003, Shirley Wise declared that she saw the resident hit appellant in the face.

By letter dated January 22, 2003, the employing establishment controverted the claim and on February 3, 2003 the Office informed appellant that the evidence submitted was insufficient to establish her claim and informed her of the type evidence needed. This was to include a physician's opinion explaining how the reported injury resulted in the diagnosed condition.

In a decision dated March 3, 2003, the Office found that the incident of January 6, 2003 occurred in the performance of duty, but that appellant had submitted insufficient medical evidence to establish that she sustained an injury resulting from the incident. On March 24, 2003 she requested reconsideration and submitted a January 7, 2003 report with an illegible signature which noted a history that she had been hit in the mouth by a patient at work. Examination findings included mild tenderness and no swelling.[1] In a decision dated June 4, 2003, the Office denied modification of the prior decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] 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 is causally related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.[3]

Office regulation, at 20 C.F.R. § 10.5(ee) define a traumatic injury as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift.[4] To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether "fact of injury" is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed. An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relates to the employment incident.[5]

---

[1] Some of the notations on the report are also illegible.

[2] 5 U.S.C. §§ 8101-8193.

[3] *Gary J. Watling*, 52 ECAB 278 (2001).

[4] 20 C.F.R. § 10.5(ee); *Ellen L. Noble*, 55 ECAB ____ (Docket No. 03-1157, issued May 7, 2004).

[5] *Gary J. Watling*, *supra* note 3.

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.[6] Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on 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.[7] Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[8]

Under the Act, the term "disability" means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury. Disability is thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages. An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in the Act.[9] Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative and substantial medical evidence.[10]

ANALYSIS

The Board finds that, while the January 6, 2003 employment incident occurred, appellant failed to meet her burden of proof to establish that this incident caused any medical condition or disability. As stated above, in order to establish her claim that she sustained an employment injury, appellant must submit rationalized medical evidence explaining that her condition was caused by the January 6, 2003 incident.[11] This she did not do.

On February 3, 2003 the Office informed appellant that the evidence submitted was insufficient because she had not submitted a physician's report explaining how the reported incident caused her condition. She was also asked to submit answers to a list of specific questions provided by the Office. While appellant submitted medical reports, she did not provide answers to the questions asked by the Office.

---

[6] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[7] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[8] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[9] *Cheryl L. Decavich*, 50 ECAB 397 (1999).

[10] *Fereidoon Kharabi*, 52 ECAB 291 (2001).

[11] *Leslie C. Moore*, *supra* note 7.

Regarding the reports appellant submitted, these included disability slips dated January 7 and 13, 2003 in which Dr. Ghiorzi advised that she should not work from January 7 to 14, 2003. In these slips, however, Dr. Ghiorzi neither provided a diagnosis nor included any type of information from which to conclude that the recommended time off work was related to an employment injury. Appellant also submitted a January 7, 2003 report which included findings on examination, but again did not provide a specific diagnosis or an opinion regarding the cause of any condition. Furthermore, the signature on this report is illegible. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship[12] and a physician's opinion on causal relationship between a claimant's disability and an employment injury is not dispositive simply because it is rendered by a physician. To be of probative value, the physician must provide rationale for the opinion reached. Where no such rationale is present, the medical opinion is of diminished probative value.[13]

In this case, the evidence of record fails to establish that appellant had a diagnosed condition or disability causally related to the January 6, 2003 employment incident. The medical evidence consists only of the January 7, 2003 report from a physician whose signature is illegible and fails to adequately provide a diagnosed condition or contain any opinion regarding the cause of the findings on physical examination. As the record does not contain rationalized medical opinion evidence relating a diagnosed condition to the January 6, 2003 employment incident, appellant has not satisfied her burden of proof.[14]

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury causally related to the January 6, 2003 employment incident.[15]

[12] *Willie M. Miller*, 53 ECAB 697 (2002).

[13] *Thomas J. Spevack*, 53 ECAB 474 (2002).

[14] *Gary J. Watling*, *supra* note 3.

[15] The Board notes that appellant retains the right to submit a valid request for reconsideration with the Office. *See* 5 U.S.C. §§ 10.605-10.610.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated June 4 and March 3, 2003 be affirmed.

Issued: March 9, 2005
Washington, DC

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member