United States Department of Labor
Employees' Compensation Appeals Board

GHULAM TOKHI, Appellant	)	
and	)	**Docket No. 06-365**
	)	**Issued: April 21, 2006**
DEPARTMENT OF THE ARMY, DEFENSE LANGUAGE INSTITUTE, FOREIGN LANGUAGE CENTER, Monterey, CA, Employer	)	

Appearances:
Ghulam Tokhi, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On November 25, 2005 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs dated November 15, 2005, finding that he had not established an injury on August 15, 2005. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof in establishing that he sustained a work-related injury in the performance of duty.

FACTUAL HISTORY

On August 18, 2005 appellant, then a 58-year-old language instructor, filed a traumatic injury claim alleging that on August 15, 2005 while teaching class, he suddenly coughed which prompted him to leave the classroom and while continuing to cough outside the classroom, he

aspirated an insect which promoted a more severe coughing episode. Upon returning to the classroom, he became unconscious and fell and was then escorted to the hospital. A witness noted that appellant "collapsed on the floor." He returned to work on August 18, 2005. Appellant stated that the August 15, 2005 incident caused chest pain, shortness of breath, dizziness and coughing.

In a report dated August 15, 2005, Dr. David E. Whitlock, Board-certified in emergency medicine and appellant's attending physician, treated him for an altered level of consciousness seizure that day, diagnosed acute pneumonia and stated that he should have a repeat computerized tomography (CT) scan.

On September 21, 2005 appellant advised the Office that, when he returned to the classroom after a coughing incident on August 15, 2005, he lost consciousness and fell, hitting his head on the floor. He experienced continuous chest pain and persistent coughing.[1] In a report dated August 15, 2005, Dr. Whitlock stated that he treated appellant that day and diagnosed acute pneumonia and a near syncope due to vasovagal phenomena secondary to severe tussive episode. He added that appellant possibly aspirated an insect during the coughing episode and further noted appellant's history of severe tussive episodes. Dr. Whitlock placed appellant off work until August 17, 2005. In a second report of that day, he opined that he could not determine if appellant's employment caused his conditions. Dr. Whitlock also noted that appellant "adamantly" stated that he did not lose consciousness. He stated that appellant had been ill with a persistent cough for two to three weeks. Dr. Whitlock stated that the August 15, 2005 incident was a vasovagal or near syncopal episode caused by a coughing spell induced by a possible aspiration of a bug and/or choking episode. He recommended a CT scan.

In an August 15, 2005 report, x-rays revealed an increase in interstitial markings. An August 15, 2005 CT scan of the thorax revealed left lower pneumonia, prior granulomatous exposure, fatty infiltration and degenerative changes of the spine. An August 16, 2005 rapid stress test was negative. On August 19, 2005 Dr. John Nabih Hage prescribed vicodin for pain.

On November 3, 2005 the Office advised appellant regarding the evidence he needed to support his claim.

In a decision dated November 15, 2005, the Office denied appellant's claim on the grounds that the medical evidence failed to support that a medical condition arose as a result of the employment-related incident on August 15, 2005.

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

[1] Appellant also complained of temporary hearing loss.

[2] 5 U.S.C. §§ 8101-8193.

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.[3]

These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

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 she actually experienced the employment incident at the time, place and in the manner alleged.[5] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[6]

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between the disability or the medical condition and employment.[7] To establish causal relationship, the claimant must submit a physician's report that reviews and considers employment factors identified by the physician as causing the disability or medical condition as well as findings upon examination and of the medical history, state whether the employment injury caused or aggravated the claimant's diagnosed condition or conditions and present medical rationale in support of his or her opinion.[8]

ANALYSIS

The Office concluded that the evidence of record was sufficient to establish that the incident occurred on August 15, 2005 as alleged. The record does not include any evidence that refutes appellant's description of the August 15, 2005 incident in which he began coughing and stepped outside a classroom. He fell on the floor upon returning to class. Because an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence,[9] the Board finds that the claimed incidents occurred on August 15, 2005. The Board also finds, however, that appellant has submitted insufficient evidence to establish a causal relationship between his medical condition and the August 15, 2005 employment incident.

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

[4] *Victor J. Woodhams*, 41 ECAB 345, 352 (1989); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[5] *John J. Carlone*, 41 ECAB 354 (1989).

[6] *Id*.

[7] *Donald W. Long*, 41 ECAB 142 (1989).

[8] *Id*.

[9] *Linda S. Christian*, 46 ECAB 598 (1995).

In a report dated August 15, 2005, Dr. Whitlock, an attending emergency room physician, treated appellant for a seizure that day and diagnosed acute pneumonia, near syncope due to a severe coughing episode and a possible aspirated insect. However, the report does not address a causal relationship between the diagnosed conditions and the employment incident that day. Medical reports not containing a rationalized medical opinion on causal relationship are entitled to little probative value.[10] In an additional report, Dr. Whitlock stated that a coughing spell caused appellant's condition, including his near loss of consciousness, but he could not determine if the coughing spell was causally related to appellant's federal employment. He also noted that he had a persistent cough for two to three weeks. There is no medical evidence supporting that employment factors caused the conditions giving rise to the coughing episode. The record also indicates that appellant was coughing before an insect apparently flew into his mouth. The Board has long held that 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.[11] The mere fact that a condition manifests itself or worsens during a period of employment does not raise an inference of causal relationship.[12] Causal relationship must be established by rationalized medical evidence based on a specific and accurate history of the employment incidents or exposures alleged to have caused the disabling condition.[13]

Dr. Whitlock stated that a possible aspiration of a bug and/or choking episode caused the initial coughing spell. This is inconsistent with appellant's history of injury, as he made no reference to a choking episode and related that it was only when he left the classroom after the initial coughing episode that he inhaled and aspirated an insect. Additionally, Dr. Whitlock asserted that appellant stated that he never fully lost consciousness while he indicated to the Office that he did lose consciousness. Medical opinions must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.[14]

Other medical reports do not address specifically whether appellant's employment incident on August 15, 2005 caused or aggravated a specific condition.

Dr. Whitlock's reports indicate that appellant's preexisting cough caused a near loss of consciousness which caused his fall, the fall itself would be considered an idiopathic fall. It is a well-settled principle of workers' compensation law and the Board has so held that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface and there is no intervention or contribution by any hazard or special condition of employment -- is not within coverage of the Act.[15] Such an injury does not arise out of a risk connected with the

[10] *Michael E. Smith*, 50 ECAB 313 (1999).

[11] *Id*.

[12] *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

[13] *Linda S. Jackson*, 49 ECAB 486, 488 (1998).

[14] *John A. Ceresoli, Sr.*, 40 ECAB 305, 311 (1988).

[15] 5 U.S.C. §§ 8101-8193.

employment and is, therefore, not compensable. Although a fall is idiopathic, an injury resulting from the fall is compensable if some job circumstance or working condition intervenes in contributing to the incident or injury, such as if an employee, instead of falling directly onto the floor, strikes a part of his body against a wall, a piece of equipment, furniture, machinery or some similar object.[16] In this case, there is no evidence that appellant struck anything other than the floor when he fell.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained a work-related injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 15, 2005 is affirmed.

Issued: April 21, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

[16] *Carol A. Lyles*, 57 ECAB ___ (Docket No. 05-1492, issued December 13, 2005); *Lowell D. Meisinger*, 43 ECAB 992 (1992).