

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

C.G., Appellant)

and)

**U.S. POSTAL SERVICE, DAKOTAS)
PERFORMANCE CLUSTER, Sioux Falls, SD,)
Employer)**

**Docket No. 07-184
Issued: April 13, 2007**

Appearances:
Appellant, 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
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 26, 2006 appellant filed a timely appeal of a merit decision of the Office of Workers' Compensation Programs dated August 23, 2006 finding that he had not established an injury on June 12, 2006. 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 to establish that he sustained an injury on June 12, 2006 as alleged.

FACTUAL HISTORY

On June 13, 2006 appellant, then a 51-year-old rural carrier, filed a traumatic injury claim for June 12, 2006. He stated that he injured his neck when his vehicle was rear-ended at approximately 3:30 p.m., while he was delivering mail. The employing establishment indicated that the June 12, 2006 accident occurred in the performance of duty and was caused by a third

party. Appellant stopped work June 12, 2006. The next day, he sought medical attention from Dr. Cathy Hennies, a Board-certified family practitioner and returned to work June 14, 2006. Appellant submitted a duty status report from Dr. Hennies dated June 13, 2006 diagnosing a cervical strain. Dr. Hennies noted that appellant provided a history of injury of being rear-ended by a car traveling at 50 miles per hour on June 12, 2006. Appellant was advised to resume regular work on June 14, 2005.

On June 16, 2006 the Office advised appellant that the evidence was insufficient to establish that he sustained an injury or medical condition arising from the performance of his duties on June 12, 2006. Appellant was directed to provide a detailed narrative report from his physician that would include a history of the injury and all other prior industrial and nonindustrial injuries to similar parts of his body, a firm diagnosis of any condition resulting from this injury, findings, symptoms and test results that confirm all diagnosed conditions, treatment provided, prognosis and the period and extent of disability, if any. The Office requested that the physician also indicate whether and explain why the diagnosed condition was caused or aggravated by the employment.

Appellant submitted a July 7, 2006 statement which described how the injury occurred and two letters from the employing establishment dated August 1, 2006 which advised that he was in the performance of duty at the time of the June 12, 2006 accident and that the accident was caused by a third party.

In an unsigned progress note of June 13, 2006, Dr. Hennies indicated that on June 12, 2006 appellant was involved in a motor vehicle accident when he was rear-ended by a car that was traveling approximately 50 miles per hour. Examination findings as well as findings of an x-ray of the cervical spine were provided. A cervical neck strain was diagnosed and appellant was advised to return to work the next day without restriction.

By decision dated August 23, 2006, the Office denied appellant's claim on the grounds that he did not establish fact of injury. The Office found that appellant had established the occurrence of the June 12, 2006 employment incident but failed to submit sufficient medical evidence addressing causal relation.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that he or she sustained an injury while in the performance of duty.² In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the employment

¹ 5 U.S.C. §§ 8101-8193.

² *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

incident caused a personal injury and generally this can be established only by medical evidence.³

The Office's procedures recognize that a claim may be accepted without a medical report when the condition is a minor one which can be identified on visual inspection.⁴ In clear-cut traumatic injury claims, such as a fall resulting in a broken arm, a physician's affirmative statement is sufficient and no rationalized opinion on causal relationship is needed. In all other traumatic injury claims, a rationalized medical opinion supporting causal relationship is required.⁵

Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between a diagnosed condition and the identified employment factor. The opinion of the physician must be based on a complete factual and medical background, must be of reasonable medical certainty and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

ANALYSIS

Appellant alleged that on June 12, 2006 he sustained a neck injury when his vehicle was rear-ended during the performance of his federal duties. The employing establishment acknowledged that he was in the performance of duty at the time of the motor vehicle accident and the Office accepted that the employment incident of June 12, 2006 occurred as alleged. Appellant must, however, submit probative medical evidence on the issue of causal relationship between a diagnosed condition and the employment incident. The claimed neck injury is not the type injury that can be identified on visual inspection or a clear-cut injury requiring only an affirmative statement. Appellant must submit rationalized medical evidence in support of his claim.

The evidence of record does not provide a rationalized medical opinion. Dr. Hennies noted on June 13, 2006 a history of appellant's June 12, 2006 motor vehicle accident where he was rear-ended and diagnosed a cervical strain. She did not, however, provide a specific opinion on causal relationship between the diagnosed condition and the June 12, 2006 employment incident. While a physician's opinion regarding a cervical strain may not require extensive medical rationale, there must be an opinion on causal relationship based on an accurate factual and medical background and with supporting explanation. The record does not contain a physician's rationalized medical opinion in this case.⁷ The Board finds that appellant did not meet his burden of proof and the Office properly denied the claim.

³ See *John J. Carlone*, 41 ECAB 354, 357 (1989).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d) (June 1995).

⁵ *Id.*

⁶ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004).

⁷ The opinion must be from a physician under the Act. See 5 U.S.C. § 8101(2).

CONCLUSION

The Board finds that appellant did not submit sufficient medical evidence to meet his burden of proof in establishing an injury in the performance of duty on June 12, 2006.

ORDER

IT IS HEREBY ORDERED THAT the August 23, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 13, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board