United States Department of Labor
Employees' Compensation Appeals Board

Y.C., Appellant	)	
and	)	**Docket No. 07-513**
	)	**Issued: August 6, 2007**
DEPARTMENT OF THE ARMY, KOREAN SERVICE CORPS, Seoul, South Korea, Employer	)	

Appearances:
Kwang Hwan Kim, for the appellant
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 December 14, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' September 8, 2006 merit decision denying his claim for a May 23, 2002 injury. 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 met his burden of proof to establish that he sustained an injury in the performance of duty on May 23, 2002.

FACTUAL HISTORY

On May 28, 2002 appellant, then a 63-year-old fire protection inspector, filed a traumatic injury claim alleging that he sustained injury due to a fall which occurred on May 23, 2002 while talking to soldiers just prior to giving a lecture on fire safety. The claim was filed on appellant's behalf by his supervisor, John Derengowski, who indicated that appellant was "walking around"

while talking and collapsed "without any abnormal signs or warnings." Mr. Derengowski noted that appellant's head "did not appear to impact the ground as he fell."

On May 31, 2002 a physician with an illegible signature stated that the results of computerized tomography (CT) testing showed that appellant sustained a "subarachnoid hemorrhage, intraventricular hemorrhage" on May 23, 2002. The physician checked a "no" box indicating that appellant's condition was not caused or aggravated by an employment activity.

On October 16, 2002 Dr. Jong Soo Kim diagnosed subarachnoid hemorrhage due to the rupture of an anterior communicating artery aneurysm and indicated that appellant had been hospitalized for this condition between May 23 and August 5, 2002. On March 4, 2003 Dr. Mun Chae Pak diagnosed midbrain paralysis and indicated that appellant was being treated for quadriplegia caused by this condition.[1]

On April 26, 2006 the Office requested that appellant submit additional factual and medical evidence in support of his claim.

Appellant submitted a May 5, 2006 statement in which Dr. Kim diagnosed subarachnoid hemorrhage due to the rupture of an anterior communicating artery aneurysm and indicated that he fell on May 23, 2002 due to the hemorrhage. Dr. Kim stated that the records he reviewed did not provide any indication that appellant hit anything while falling to the floor, such as a table or lectern. In a May 5, 2006 statement, Yi Tok Kyu, a coworker, stated that appellant did not hit anything while falling to the floor but did hit his head on the flat concrete floor.[2]

In a September 8, 2006 decision, the Office determined that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty on May 23, 2002. The Office indicated that the claimed injury was not covered because appellant fell due to a nonwork-related subarachnoid hemorrhage and he did not strike any object when he fell.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[3] 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 compensation is claimed are causally related to the employment injury.[4] The employee must submit sufficient evidence to establish that he actually experienced the employment incident at

[1] The specialties of Drs. Kim and Pak are not listed in the available reference materials.

[2] However, it is unclear whether Mr. Kyu was present when appellant fell as he indicated on the May 2002 claim form that he was retrieving a fire extinguisher at the time of the fall.

[3] 5 U.S.C. §§ 8101-8193.

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

the time, place and in the manner alleged.[5] The employee must also submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[7]

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 the coverage of the Act. Such an injury does not arise out of a risk connected with the employment and, therefore, it is not compensable.[6] The question of causal relationship in such cases is a medical one and must be resolved by medical evidence.[7] However, as the Board has made equally clear, the fact that the case of a particular fall cannot be ascertained or that the reason it occurred cannot be explained does not establish that it was due to an idiopathic condition. This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to the general rule.[8] If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely established that a physical condition preexisted the fall and caused the fall.[9]

ANALYSIS

Appellant alleged that he sustained injury due to a fall which occurred on May 23, 2002 while talking to soldiers just prior to giving a lecture on fire safety. He did not submit sufficient evidence to show that he sustained an injury in the performance of duty on May 23, 2002.

The medical evidence of record shows that a personal, nonoccupational pathology caused appellant to collapse on May 23, 2002 and to suffer injury. On May 31, 2002 a physician with an illegible signature stated that appellant sustained a "subarachnoid hemorrhage, intraventricular hemorrhage" which was not caused or aggravated by an employment activity. On October 16, 2002 Dr. Kim diagnosed subarachnoid hemorrhage due to the rupture of an anterior communicating artery aneurysm. He provided the same diagnosis on May 5, 2006 and

[5] *Julie B. Hawkins*, 38 ECAB 393, 396 (1987).

[6] *Robert J. Choate*, 39 ECAB 103, 106 (1987).

[7] *Amrit P. Kaur*, 40 ECAB 848, 853 (1989). 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. *John D. Williams*, 37 ECAB 238, 240 (1985).

[8] *Emelda C. Arpin*, 40 ECAB 787, 789 (1989).

[9] *See Martha G. List (Joseph G. List)*, 26 ECAB 200, 204-05 (1974). The Office's procedure manual indicates that, if a fall is not shown to be caused by an idiopathic condition, it is simply unexplained and is, therefore, compensable if it occurred in the performance of duty. An idiopathic fall is one where a personal, nonoccupational pathology causes an employee to collapse and an unexplained fall is one where the cause is unknown even to the employee. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.9c (August 1992).

indicated that appellant fell on May 23, 2002 due to this hemorrhage. On March 4, 2003 Dr. Pak diagnosed midbrain paralysis and indicated that appellant was being treated for quadriplegia caused by this condition.[10] There is no indication in the record that appellant fell due to unexplained reasons or due to a medical condition that was caused or aggravated by employment factors.

In addition, appellant did not experience an intervention or contribution by any hazard or special condition of employment, such as hitting a table or lectern before he landed on the immediate supporting surface. Mr. Derengowski, a supervisor, stated that appellant fell without warning on May 23, 2002 and did not indicate that he hit any object before he reached the floor. Appellant has not alleged that he hit anything before he landed on the floor and the record does not establish that any employment hazard contributed to his fall. For these reasons, he has not shown that an employment factor contributed to his claimed injury and appellant has not established that he sustained an injury in the performance of duty on May 23, 2002.

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 May 23, 2002.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' September 8, 2006 decision is affirmed.

Issued: August 6, 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

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[10] The specialties of the physicians of record are not listed in the available reference materials.