United States Department of Labor
Employees' Compensation Appeals Board

L.J., Appellant	)	
and	)	**Docket No. 08-1415**
	)	**Issued: December 22, 2008**
U.S. POSTAL SERVICE, POST OFFICE, San Francisco, CA, Employer	)	

Appearances:
Mark Cody, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 15, 2008 appellant filed a timely appeal from the Office of Workers' Compensation Programs' February 6 and September 28, 2007 merit decisions denying her claim for a January 2, 2002 employment injury. 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 her burden of proof to establish that she sustained an injury in the performance of duty on January 2, 2002.

FACTUAL HISTORY

On January 26, 2002 appellant, then a 61-year-old clerk, filed a traumatic injury claim alleging that she sustained injury to the back of her head due to a fall at work on January 2, 2002. She indicated that she fainted and fell while unconscious and did not remember the fall. Appellant experienced head pain and dizziness after the fall. She advised that she arrived at work at 4:00 a.m. and was sorting mail between 7:00 and 7:30 a.m. when she suddenly fell to the

floor. Appellant indicated that her mail sorting activities required bending over or stooping down and then bending back up or raising herself up.[1]

On January 17, 2002 Dr. Will North, an attending Board-certified neurologist, stated that on January 2, 2002 appellant was engaged in frequent stooping and bending. Following a transition from squatting to a standing position, she felt lightheaded and passed out. Appellant related that she did not have any chronic medical conditions. Dr. North stated that she sustained a left occipital scalp hematoma due to the fall and noted that she reported chronic mild lightheadedness and dizziness since that time. On examination, appellant's recumbent blood pressure was 116/60 with a pulse of 72. Dr. North diagnosed "syncope secondary to orthostatic hypotension" and stated, "I think [appellant's] loss of consciousness is most likely in the basis of lowered cerebral profusion following a transition in posture." He saw no evidence of a primary cardiac or neurologic process. Dr. North recommended that appellant drink regularly and to do aerobic exercise to help with neural and arterial tone and avoid future events.

On March 25, 2002 Dr. Rosa Melgar, an attending Board-certified occupational medicine physician, stated that she first saw appellant on January 7, 2002. She obtained a history that on January 2, 2002 appellant was sorting mail and suddenly lost consciousness and fell to the floor. Appellant denied having a prior history of loss of consciousness. An examination on January 7, 2002 revealed positive soft tissue swelling on the back of her head and tenderness over her left inferior rib cage area. Dr. Melgar diagnosed "syncope (loss of consciousness) as well as head contusion with headache, right jaw pain, left rib cage pain." She stated, "I explained to the patient at that time that the cause of her accident was syncope which was not work-related, but was coincidental that it had happened at work."

On April 10, 2002 Dr. Cynthia Chin, an attending Board-certified internist, stated that appellant was initially seen on January 2, 2002 after passing out at work. Appellant was seen at Kaiser Permanente on January 8, 2002 and reported that she had not eaten much on January 2, 2002. She squatted from a standing position and then passed out. Appellant was discovered by coworkers and found to have a small left occipital scalp hemotoma. Dr. Chin indicated that neurological evaluation revealed that the loss of consciousness was from orthostatic hypotension. Appellant underwent a magnetic resonance imaging test which revealed only small vessel ischemic disease of the brain and her neurological examination on March 26, 2002 was normal. Dr. Chin indicated that appellant was recovering with a postconcussive syndrome and continued to complain of throbbing head pressure and imbalance in walking. She stated, "Most likely, [appellant's] syncope was due to orthostatic hypotension, perhaps contributed by not eating and drinking fluids regularly." Dr. Chin recommended light-duty work for one or two months.

In an April 29, 2002 decision, the Office denied appellant's claim that she sustained an injury in the performance of duty on January 2, 2002. It found that the medical evidence showed that she sustained an idiopathic fall on January 2, 2002 because she fainted and fell due to orthostatic hypotension, a personal, nonoccupational pathology and did not strike an intervening object before striking the floor.

[1] Medical reports from around the time of the January 2, 2002 show that appellant reported that she fainted while she was sorting mail.

Appellant requested a hearing before an Office hearing representative. At the November 15, 2006 hearing, she contended that she sustained an employment injury on January 2, 2002 because the activity of bending and stopping contributed to her fall. Appellant ate breakfast before reporting for work on January 2, 2002.

In a February 6, 2007 decision, the Office hearing representative affirmed the April 29, 2002 decision. She found that the medical evidence established that appellant fell on January 2, 2002 due to the idiopathic condition of orthostatic hypotension.

Appellant submitted an August 6, 2007 report of Dr. Parvez Fatteh, an attending physician Board-certified in physical medicine and rehabilitation. Dr. Fatteh had treated appellant for her January 2, 2002 fall and posited that it was of industrial causation as Dr. North had diagnosed "syncope secondary to orthostatic hypotension," with loss of consciousness "following a transition in posture." He indicated that the medical records "paint the picture of [appellant] being engaged in physical movements, including squatting, that occurred during the course of her work for the [employing establishment], resulting in a fall that arose out of her employment." Dr. Fatteh advised that appellant sustained a left occipital hematoma due to the fall and she continued to complain of neck pain, occipital headaches, periodic nausea and vomiting and other symptoms consistent with the diagnosis of postconcussive disorder. He noted that appellant did not have these symptoms prior to the January 2, 2002 fall and stated, "I therefore opine that [appellant's] fall and resultant postconcussive disorder were 100 percent caused by the fall that occurred … on January 2, 2002."

In a September 28, 2007 decision, the Office affirmed its February 6, 2007 decision indicating that appellant sustained an idiopathic fall on January 2, 2002 and did not strike an intervening object before striking the floor.

LEGAL PRECEDENT

An employee who claims benefits under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of her claim.[3] The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, establishing causal relationship.[4] However, it is well established that proceedings under the Act are not adversarial in nature, and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.[5]

[2] 5 U.S.C. §§ 8101-8193.

[3] *Ruthie Evans*, 41 ECAB 416, 423-24 (1990); *Donald R. Vanlehn*, 40 ECAB 1237, 1238 (1989).

[4] *Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

[5] *Dorothy L. Sidwell*, 36 ECAB 699, 707 (1985); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

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]

ANALYSIS

Appellant claimed that she sustained an employment injury on January 2, 2002 when she struck her head after fainting and falling to the floor. The Office denied her claim determining that she sustained a noncompensable idiopathic fall because she fainted and fell due to orthostatic hypotension, a personal, nonoccupational pathology and she did not strike an intervening object before striking the floor.

The Board notes that, while none of the reports of appellant's attending physicians are completely rationalized, they are consistent in indicating that employment factors contributed, at least in part, to appellant's fall on January 2, 2002. Several attending physicians indicated that appellant fainted and fell on January 2, 2002 due to the condition of orthostatic hypotension. The condition of orthostatic hypotension is defined as an excessive fall in blood pressure on assuming the upright position.[8] In the present case, the record reveals that prior to fainting appellant engaged in mail sorting activities which required bending over or stooping down and then raising herself up. Appellant's attending physicians made note of the involvement of these activities when they provided their diagnoses.

For example, Dr. North, an attending Board-certified neurologist, stated on January 17, 2002 that appellant suffered "syncope secondary to orthostatic hypotension" on January 2, 2002 and noted, "I think [appellant's] loss of consciousness is most likely in the basis of lowered cerebral profusion following a transition in posture." In an April 10, 2002 report, Dr. Chin reported appellant's history of body movement on January 2, 2002 and indicated that most likely her syncope was due to orthostatic hypotension.[9] In an August 6, 2007 report, Dr. Fatteh, an attending physician Board-certified in physical medicine and rehabilitation, posited that appellant's January 2, 2002 fall was of industrial causation in that Dr. North diagnosed her with "syncope secondary to orthostatic hypotension," with loss of consciousness occurring "following a transition in posture." He indicated that the medical records "paint the picture of [appellant] being engaged in physical movements, including squatting, that occurred during the course of

[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] The Merck Manual, 434 (16th ed. 1992).

[9] Dr. Chin stated that appellant's eating and drinking habits might have also contributed to the syncope.

her work for the [employing establishment], resulting in a fall that arose out of her employment."[10]

The Board notes that given the fact that the reports of appellant's attending physicians show that employment activities at least partially contributed to her fainting and falling on January 2, 2002, it appears inappropriate for the Office to have characterized her January 2, 2002 incident as solely idiopathic in nature, *i.e.*, entirely due to a personal, nonoccupational pathology.[11] The reports of appellant's attending physicians are not contradicted by any substantial medical or factual evidence of record.[12] Therefore, while the reports are not sufficient to meet her burden of proof to establish her claim,[13] they raise an uncontroverted inference that employment factors contributed to appellant's fainting and falling on January 2, 2002 and are sufficient to require the Office to further develop the medical evidence and the case record.[14]

Accordingly, the case will be remanded to the Office for further evidentiary development regarding the issue of whether appellant sustained an employment-related injury on January 2, 2002 and, if so, whether she sustained any periods of disability due to such injury. After such development as the Office deems necessary, an appropriate decision should be issued on this matter.

CONCLUSION

The Board finds that the case is not in posture for decision regarding whether appellant sustained an injury in the performance of duty on January 2, 2002. The case is remanded to the Office for further development to be followed by an appropriate decision.

[10] Several physicians indicated that appellant sustained a left occipital hematoma due to the fall.

[11] *See supra* note 6 and 7 and accompanying text.

[12] On March 25, 2002 Dr. Melgar, an attending Board-certified occupational medicine physician, indicated that on January 2, 2002 appellant sustained a syncope, *i.e.*, a loss of consciousness, which "was not work-related." However, she did not identify any nonwork-related cause of the syncope and she provided no opinion that appellant's moving down and up while sorting mail did not contribute to it. The Board further notes that there is no evidence that appellant had problems with persistent low blood pressure prior to or after January 2, 2002.

[13] The Board notes that the attending physicians did not fully explain the medical process through which appellant's mail sorting activities contributed to her sustained orthostatic hypotension.

[14] *See Robert A. Redmond*, 40 ECAB 796, 801 (1989).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' September 28 and February 6, 2007 decisions are set aside and the case remanded to the Office for further proceedings consistent with this decision of the Board.

Issued: December 22, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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