

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

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**E.T., Appellant**

**and**

**DEPARTMENT OF THE AIR FORCE,  
EIELSON AIR FORCE BASE, AK, Employer**

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**Docket No. 08-1671  
Issued: December 5, 2008**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On May 27, 2008 appellant filed a timely appeal from an April 11, 2008 merit decision of the Office of Workers' Compensation Programs that denied his claim for compensation. 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 traumatic injury in the performance of duty on February 19, 2008.

**FACTUAL HISTORY**

On March 4, 2008 appellant, then a 46-year-old educational technician, filed a traumatic injury claim alleging that he experienced pain, soreness and "a bulging area" around his stomach after slipping into a snow blower control knob while clearing snow from a sidewalk on February 19, 2008. He did not stop work.

In a letter March 10, 2008 letter, the Office confirmed receipt of appellant's claim but stated that no evidence was attached to support it. It advised appellant of the factual and medical evidence needed to establish his claim and allowed him 30 days to submit such evidence.

In a March 14, 2008 response, appellant described how the February 19, 2008 incident occurred. He explained that he slipped while using a snow blower to clear the sidewalk outside his place of employment and fell into the snow blower's control knob. A few days after the incident, appellant noticed continued soreness and a bulging area above his navel, which he believed was related to his previously repaired hernia. He subsequently sought medical treatment but advised that his physician "would not fill out the injury paperwork (CA-20) until he sees what the extent of the injury is."

In an April 11, 2008 decision, the Office denied appellant's claim for compensation, finding that there was no medical evidence to establish a diagnosed medical condition causally related to the February 19, 2008 employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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 filed within the applicable time limitation; that an injury was sustained while 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>2</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>3</sup>

### **ANALYSIS**

The record supports that appellant is a federal employee who slipped into a snow blower control knob as alleged on February 19, 2008. However, he has not submitted any medical evidence to establish that the February 19, 2008 employment incident caused or aggravated a diagnosed medical condition. Appellant did not submit a physician's report explaining how the February 19, 2008 employment incident caused or aggravated a diagnosed medical condition.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *S.P.*, 59 ECAB \_\_\_ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *Id.*

On March 10, 2008 the Office advised appellant of the medical evidence needed to establish his claim for benefits. Appellant provided a March 14, 2008 statement that described how the February 19, 2008 incident occurred. He indicated that medical evidence would be forthcoming once his physician determined the extent of his injury. However, appellant did not submit any medical evidence prior to the Office's April 11, 2008 decision. The Board notes that he did not provide the factual and medical evidence required to establish a *prima facie* claim for compensation.<sup>4</sup> Therefore, appellant did not meet his burden of proof in establishing that he sustained an injury on February 19, 2008, as alleged.<sup>5</sup>

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that he sustained a traumatic injury on February 19, 2008 causally related to his employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 11, 2008 is affirmed.

Issued: December 5, 2008  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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<sup>4</sup> See *Donald W. Wenzel*, 56 ECAB 390 (2005).

<sup>5</sup> Appellant submitted new evidence on appeal. However, the Board may only review evidence that was in the record at the time the Office issued its final decision. 20 C.F.R. § 501.2(c).