

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

C.S., Appellant)	
)	
and)	
)	
DEPARTMENT OF HOMELAND SECURITY,)	Docket No. 08-179
TRANSPORTATION SECURITY)	Issued: June 12, 2008
ADMINISTRATION, RONALD REAGAN)	
NATIONAL AIRPORT, Washington, DC,)	
Employer)	
)	

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 October 23, 2007 appellant filed a timely appeal from the September 6, 2007 decision of the Office of Workers' Compensation Programs denying her traumatic injury claim. 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 injured her foot in the performance of duty on June 27, 2007, as alleged.¹

¹ The Board notes that, following the Office's issuance of its September 6, 2007 decision, appellant submitted several medical documents. On appeal, she also submitted medical documentation related to her claim. As this evidence was not in the record at the time the Office issued its final decision, the Board cannot review it for the first time on appeal. See 20 C.F.R. §§ 501.2(c) ("the [Board's] review of the case shall be limited to the evidence in the case record which was before the Office at the time of its final decision").

FACTUAL HISTORY

On July 23, 2007 appellant, then a 33-year-old transportation security officer, filed a traumatic injury claim alleging that she fractured her foot when she fell off of an x-ray stool on June 27, 2007. She stopped working on July 1, 2007.

On July 31, 2007 the Office notified appellant that the evidence of record was insufficient to establish the alleged employment incident. It provided her 30 days to submit additional medical and factual information regarding her claim.

On August 14, 2007 appellant submitted a claim for compensation for leave without pay taken from August 12 to 22, 2007. She did not submit the requested evidence in the allotted time.

By decision dated September 6, 2007, the Office denied appellant's claim on the grounds that she had not established that an employment-related event occurred as alleged or that she had a diagnosis connected to the claimed events.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty; and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³

In order to determine whether an employee sustained a traumatic injury in the performance of duty, the Office must first determine whether "fact of injury" has been established. "Fact of injury" consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the incident caused a personal injury and, generally, this can be established only by medical evidence.⁴

When determining whether the implicated employment factors caused the claimant's diagnosed condition, the Office generally relies on the rationalized medical opinion of a physician.⁵ To be rationalized, the opinion must be based on a complete factual and medical background of the claimant⁶ and must be one of reasonable medical certainty,⁷ explaining the

² 5 U.S.C. §§ 8101-8193.

³ *Caroline Thomas*, 51 ECAB 451 (2000); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Ellen L. Noble*, 55 ECAB 530 (2004).

⁵ *Conard Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁶ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁷ *John W. Montoya*, 54 ECAB 306 (2003).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁸

ANALYSIS

The Office did not accept that the claimed incident occurred as alleged or that appellant sustained an injury. The issue to be determined is whether appellant has submitted sufficient evidence to demonstrate that she fractured her foot in the performance of duty on June 27, 2007.

In her July 23, 2007 claim, appellant alleged that she fractured her foot when she fell off of an x-ray stool. However, she provided no details about the events surrounding this incident. Notably, she did not identify which foot was involved in the incident, or why she did not stop work until three days later. Appellant did not submit any medical evidence establishing the existence of any medical condition or a fracture to either foot.

Because appellant did not submit any evidence to establish her claim, the Board finds that she did not meet her burden of proof.

CONCLUSION

The Board finds that appellant has not established that she injured her foot in the performance of duty on June 27, 2007 as alleged.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 6, 2007 is affirmed.

Issued: June 12, 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

⁸ *Judy C. Rogers*, 54 ECAB 693 (2003).