

In a March 27, 2008 letter, the Office advised appellant of the type of factual and medical evidence needed to establish his claim and allowed him 30 days to submit such evidence. In particular, it noted that his CA-1 form was the only evidence of record and that this was insufficient to support his claim.

In a May 12, 2008 decision, the Office denied appellant's claim for compensation. It found that, while the evidence supported that he actually experienced the claimed incident, no medical evidence was provided to support that he sustained a diagnosed medical condition causally related to the work incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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.²

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.³

ANALYSIS

The record supports that appellant was lifting at work on February 26, 2008. Appellant alleged that this caused a back and right leg injury. However, he has not submitted medical evidence establishing that the February 26, 2008 employment incident caused or aggravated a diagnosed medical condition to the back or right leg.

On March 27, 2008 the Office advised appellant of the type of medical evidence needed to establish his claim and allowed him 30 days to submit such evidence. However, he did not submit any medical evidence that was received prior to the Office's May 12, 2008 decision.⁴ For

¹ 5 U.S.C. §§ 8101-8193.

² *S.P.*, 59 ECAB ___ (Docket No. 07-1584, issued November 15, 2007).

³ *Id.*

⁴ The record on appeal contains evidence received after the Office issued the May 12, 2008 decision. The Board may not consider evidence that was not before the Office at the time it rendered its final decision. 20 C.F.R. § 501.2(c). Appellant may submit such evidence to the Office with a request for reconsideration.

example, appellant did not submit a medical report from a physician explaining how a specific lifting activity at work on February 26, 2008, caused or aggravated a particular back or right leg diagnosis. Therefore, he did not meet his burden of proof in establishing that he sustained an injury in the performance of duty causally related to his federal employment.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained a traumatic injury of February 26, 2008 causally related to his employment.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' May 12, 2008 decision is affirmed.

Issued: January 29, 2009
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