

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

G.V., Appellant)

and)

SOCIAL SECURITY ADMINISTRATION,)
Jamaica, NY, Employer)

Docket No. 08-655
Issued: March 17, 2009

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On December 26, 2007 appellant timely appealed the September 26, 2007 merit decision of the Office of Workers' Compensation Programs, which denied his claim for employment-related high blood pressure. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant sustained an injury in the performance of duty on June 29, 2007.

FACTUAL HISTORY

On June 29, 2007 appellant, then a 42-year-old bilingual contact representative, filed a claim (Form CA-1) for elevated blood pressure, which he attributed to poor air quality in the workplace. The employing establishment indicated that the air quality in the employing establishment was good and his claimed condition was self-induced.

Dr. Maung Maung, a Board-certified internist, saw appellant on June 29, 2007. Appellant complained of nausea and dizziness and noted that his blood pressure was high. Dr. Maung reported that appellant was at work when he “felt dizzy and not enough air to breath[e].” Appellant then went to have his blood pressure checked. While at work his blood pressure reportedly climbed from 133/86 to 160/96. Appellant claimed not to have argued with anyone at work. He reportedly had been working in a closed environment without windows and air conditioning. Dr. Maung diagnosed benign hypertension, uncontrolled. He also noted several other chronic problems that included atrial fibrillation, history of tobacco use, sleep apnea, obesity and hearing loss. Dr. Maung advised appellant to continue taking his antihypertensive medication, Nifedipine. He also recommended a low-salt diet, a follow-up visit with a cardiologist and that appellant work in a well-ventilated and quiet area. In a separate duty status report (Form CA-17), Dr. Maung advised that appellant would be able to perform light-duty work as of July 5, 2007.

In a July 18, 2007 letter to the Office, the employing establishment advised that appellant had filed a similar claim for high blood pressure, which he attributed to a May 29, 2007 interview, with a client who was reportedly ““very complicated and difficult.”” Following the alleged incident of May 29, 2007 it was learned that appellant had not renewed his blood pressure medication for the previous two years. As to the events of June 29, 2007, the employing establishment explained that appellant visited the employee health unit around 10:30 a.m. where his blood pressure was monitored and he was allowed to rest. Around 11:30 a.m. appellant returned to his worksite and requested leave for the remainder of the day. His leave request was granted, but he nonetheless remained at the worksite. Appellant was reportedly using his office computer to conduct personal business. He returned to the employee health unit a third time at around 1:45 p.m. By then appellant’s blood pressure had climbed to 160/96. Afterwards he requested a workers’ compensation claims form.

Earlier that same morning, appellant reportedly became irate during a conversation with supervisory personnel about using advance sick leave. After signing out at 12:30 p.m., he returned to his desk and logged on to his e-mail account. Sharon Knight, the Office manager, told appellant to either go to his doctor’s office or go to the nurse’s station, but that he could not sit in his office sending e-mails. Appellant reportedly explained that this was how he calmed down and that he did not want to go to the nurse’s office to calm down. He wanted to just sit at his desk and type something. Ms. Knight allowed appellant to remain in his office and sit quietly at his desk. However, on several occasions she reminded him not to log on to the system or send out e-mails. Each time appellant responded that he was just trying to calm down. Ms. Knight reported that by this time he “appeared to be outraged.” Appellant left the office around 1:45 p.m. On his way out the door, he used profanity towards Ms. Knight and he received a verbal warning for his misconduct. Appellant then returned to the nurse’s station.

In response to appellant’s allegations of poor air quality, the employing establishment indicated that measurements were obtained for the week of June 25 to 29, 2007, which revealed a workplace temperature consistently between 73 and 75 degrees during the hours of 7:00 a.m. to 7:00 p.m. The employing establishment further indicated that in addition to increased air flow from the air conditioning units, several large fans had been strategically placed in the work area to further increase air flow.

On August 6, 2007 the Office wrote appellant requesting that he provide additional factual and medical information regarding his alleged June 29, 2007 employment injury.

Appellant submitted a written response, which the Office received on September 4, 2007. Although he discussed previous claims he filed for hearing loss and hypertension, he did not provide any additional information regarding the specific events of June 29, 2007. Appellant also failed to submit the additional medical evidence the Office previously requested.

By decision dated September 26, 2007, the Office denied appellant's claim that poor air quality on June 29, 2007 caused an increase in his blood pressure. It found that the evidence was insufficient to support appellant's allegation of poor air quality. Additionally, there was no medical evidence that provided a diagnosis that could be connected to the claimed exposure.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.²

To determine if an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred.³ The second component is whether the employment incident caused a personal injury.⁴

ANALYSIS

Appellant claimed that his elevated blood pressure on June 29, 2007 was a result of poor air quality in the workplace. When asked to substantiate his allegations of poor air quality he encountered on June 29, 2007, appellant did not respond. Appellant saw Dr. Maung on June 29, 2007 and reported that he had been working in a closed environment without windows and air

¹ 5 U.S.C. §§ 8101-8193 (2006).

² 20 C.F.R. § 10.115(e), (f) (2008); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

conditioning. However, the employing establishment indicated that, during the work week, beginning June 25, 2007, the workplace temperature was consistently between 73 and 75 degrees during the hours of 7:00 a.m. to 7:00 p.m.⁵ The employing establishment also stated that, in addition to increased air flow from the air conditioning units, several large fans had been strategically placed in the work area. Consequently, the evidence does not support appellant's allegation that he was subjected to poor air quality in the workplace on June 29, 2007.

CONCLUSION

Appellant failed to establish that he sustained an injury in the performance of duty on June 29, 2007.

ORDER

IT IS HEREBY ORDERED THAT the September 26, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 17, 2009
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

⁵ Appellant's regularly scheduled work hours are 8:00 a.m. to 4:30 p.m., Monday through Friday.