United States Department of Labor
Employees' Compensation Appeals Board

G.V., Appellant	)	
and	)	**Docket No. 08-657**
	)	**Issued: March 12, 2009**
SOCIAL SECURITY ADMINISTRATION, Jamaica, NY, Employer	)	

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
JAMES A. HAYNES, Alternate 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 hypertension. 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 May 29, 2007.

FACTUAL HISTORY

On June 5, 2007 appellant, then a 42-year-old bilingual contact representative, filed an occupational disease claim (Form CA-2) for hypertension, which he attributed to a May 29, 2007 interview with a client who was "very complicated and difficult." He stated that he was overwhelmed and aggravated by the client interview and his blood pressure immediately reached

"'180 over 100.'" On June 25, 2007 appellant filed a traumatic injury claim (Form CA-1) for hypertension attributed to the same May 29, 2007 client interview.

Appellant had a prior history of hypertension. On May 29, 2007 he sought treatment for his elevated blood pressure at the employee health unit. Appellant's pressure at the time was 186/96. According to the treatment records, he reported that he had been off his blood pressure medication for two years. There was no mention of an incident involving a client. Appellant was later transported by ambulance to a nearby hospital emergency room, where he received a diagnosis of hypertension.

Appellant returned to the employee health unit (HU) on June 4, 2007. While he was there having his blood pressure checked, he reported that he was in the process of filing a workers' compensation claim for an incident where he got emotionally upset while dealing with a client at his desk. Appellant reportedly stated that he had developed chest discomfort and came to the HU and was later transported to the hospital emergency room for evaluation. However, the HU caregiver noted that appellant's latest account of the May 29, 2007 incident was "incongruent with events that allegedly occurred earlier during the day." The June 4, 2007 treatment records indicate that appellant had previously presented to the HU stating that he wanted oxygen because the equipment he used at night for his obstructive sleep apnea apparently had not functioned properly the evening before. Appellant reportedly complained of restless sleep. The June 4, 2007 treatment notes also reflect that appellant previously reported having lasagna, which gave him pressure in the chest and tightness in the stomach.

The employing establishment provided statements from several managers. Angelo A. Scimeme and Francisco Martinez both stated that on the morning of May 29, 2007 appellant made arrangements for a tow truck to assist a relative with car troubles. Appellant provided his credit card information over the telephone, but later cancelled the towing services. He also cancelled his credit card out of concern that the towing company might misuse his credit information. Mr. Martinez also stated that appellant complained later that same day about feeling ill from eating some salty food he obtained from the cafeteria. But appellant did not mention or complain to Mr. Martinez about interviewing a disgruntled claimant. Mr. Scimeme was also aware of the May 29, 2007 cafeteria food incident. He said he went to the nursing unit that afternoon to bring appellant his keys and when he asked appellant how he was feeling, appellant reportedly said he had eaten some salty lasagna for lunch and believed that was the reason for the spike in his blood pressure.

In a June 4, 2007 statement, Tanya Shepherd indicated that she spoke with appellant on May 31, 2007 regarding his health. Appellant reportedly informed Ms. Shepherd that he had been under a doctor's care for a long time. Ms. Shepherd also stated that appellant told her he had been given a prescription for medication to control his blood pressure, but that he did not take the medication. She was not at work on May 29, 2007, but when she spoke with appellant two days later he reportedly told her that the lunch he purchased from the cafeteria on May 29, 2007 was very salty and he felt ill after eating it. Ms. Shepherd also stated that appellant told her that prior to feeling ill he had interviewed a customer who kept moving from window to window translating for different people. The interview reportedly caused appellant "some discomfort."

On June 5, 2007 appellant sent an e-mail to Daniel Kravetz with the subject line "Out Sick." He indicated that he was sick on the job on May 29, 2007 and left via ambulance. Appellant further stated that at the hospital his blood pressure was 185/100. He attributed his condition to an "interview with a difficult ... client." Appellant stated that he was "placed in an uncomfortable feeling" because of the interview. "[F]eeling very abnormal," he reported to the nurse's station and later went to the hospital. Appellant explained that his doctor had since placed him on blood pressure medication. He also expressed his belief that working conditions had a huge impact on his current health predicament. Appellant identified long lines, "EAE" blunders, irate clients, loud noise and employees shouting over the intercom as factors that subconsciously ignited and contributed to his hypertension. He advised Mr. Kravetz that he was applying for workers' compensation.

In a June 26, 2007 attending physician's report (Form CA-20), Dr. Maung Maung, a Board-certified internist, diagnosed hypertension. He indicated that he first treated appellant on May 30, 2007. However, Dr. Maung did not identify a date of injury or include a specific history of injury other than noting "[h]ypertension." He stated that "stress and anxiety can raise blood pressure." Dr. Maung found appellant disabled from May 29 until June 2, 2007. Appellant was able to resume his regular duties effective June 3, 2007. Dr. Maung prescribed anti-hypertensive medication and recommended a low-salt diet and weight loss. He also noted that appellant should control his blood pressure, control his emotions and take his medication.

On August 6, 2007 the Office wrote appellant requesting that he provide additional factual and medical information regarding his claimed hypertension due to a difficult job interview on May 29, 2007.[1]

The Office received appellant's undated written response on September 4, 2007. With respect to his elevated blood pressure on May 29, 2007, appellant stated that he had a "complicated interview" and was "overwhelmed." This interview, in conjunction with a "negative work environment," which appellant described as a "lack of fresh air" and "noise pollution," allegedly contributed to his elevated blood pressure. Appellant did not submit the previously requested medical evidence.

By decision dated September 26, 2007, the Office denied appellant's claim for an injury arising on May 29, 2007.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act[2] 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

[1] The letter also noted that appellant had filed an earlier claim for employment-related hearing loss (File No. xxxxxx758) and a subsequent claim for hypertension due to poor air quality encountered on June 29, 2007 (File No. xxxxxx024).

[2] 5 U.S.C. §§ 8101-8193.

alleged and that any specific condition or disability claimed is causally related to the employment injury.[3]

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.[4] 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.[5] The second component is whether the employment incident caused a personal injury.[6]

ANALYSIS

Appellant claims he was involved in "very complicated and difficult" client interview on May 29, 2007. But other than describing the alleged incident as complicated and difficult, he has not provided any specific details about the May 29, 2007 client interview. According to Ms. Shepherd, appellant told her on May 31, 2007 that he had interviewed a customer who kept moving from window to window translating for different people. Even this account is not particularly descriptive such that one might possibly understand what aspect of the alleged May 29, 2007 interview process was difficult or complicated and caused appellant to feel overwhelmed. The Board further notes that appellant did not mention the alleged incident to either Mr. Martinez or Mr. Scimeme on May 29, 2007. The medical treatment records for May 29, 2007 do not document an alleged complicated and difficult interview with a client earlier that day. However, there are several reports that appellant initially attributed his elevated blood pressure to having eaten particularly salty food at lunch on May 29, 2007. Appellant has failed to provide sufficient information about the alleged client interview incident. Accordingly, he has not established that the May 29, 2007 incident occurred as alleged.

Even if one were to accept appellant's allegation that he was overwhelmed by a "very complicated and difficult" client interview, the medical evidence does not establish a relationship between appellant's hypertension and the alleged May 29, 2007 incident. Dr. Maung did not identify any specific employment factors as a cause of appellant's hypertension. His June 26, 2007 report did not mention a particularly stressful client interview on May 29, 2007. There was

[3] 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.*

[4] Although appellant initially filed an occupational disease claim (Form CA-2), the work incident that allegedly was responsible for his elevated blood pressure occurred on a single day, May 29, 2007. As such, appellant's claim is more appropriately considered as a traumatic injury claim. *See* 20 C.F.R. § 10.5(q), (ee).

[5] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[6] *John J. Carlone*, 41 ECAB 354 (1989).

also no mention of a "lack of fresh air" or "noise pollution" as possible contributing factors. The only etiological insight Dr. Maung provided was a rather general statement that "stress and anxiety can raise blood pressure." This, however, does not constitute a rationalized medical opinion on causal relationship. Accordingly, appellant failed to establish "fact of injury."

CONCLUSION

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

ORDER

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

Issued: March 12, 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