

On March 27, 2007 appellant, then a 55-year-old management support assistant, filed a Form CA-1 (notice of traumatic injury) alleging that on that day she injured her right foot and ankle and left leg when she slipped and fell while exiting a shuttle bus that transported employees between employing establishment locations. She did not stop work. The employing establishment controverted the claim on the basis that appellant was not in the performance of

duty when the injury occurred. Appellant submitted material from Fort Washington Medical Center, which indicated that she was seen on March 27, 2007 at 10:10 a.m. for a slip and fall from a bus.

By letter dated May 7, 2008, the Office advised appellant that additional factual and medical evidence were needed to establish her claim. It also requested information from the employing establishment. No additional evidence was received.

By decision dated June 19, 2008, the Office denied appellant's claim. It found that the March 27, 2007 work incident occurred at the time, place and in the manner alleged; however, the medical evidence was insufficient to establish that appellant sustained an injury causally related to the accepted employment incident.

On August 7, 2008 appellant requested reconsideration. In a March 27, 2007 record from Fort Washington Hospital, Dr. Deepak Sachdeva, a specialist in emergency medicine, noted a history of a fall when stepping from a bus. He provided an impression of contusion of the right leg. Appellant also submitted an April 21, 2007 occupational injury and illness report, a March 27, 2007 clinic visit progress notes report from an employing establishment nurse and duplicative copies of materials from Fort Washington Medical Center.

In a July 28, 2008 statement, Stephanie Makseyn-Kelley, a museum program specialist, stated that the March 27, 2007 incident occurred as appellant was traveling by shuttle from her duty station at the Cultural Resources Center (CRC) to the museum on the National Mall. Ms. Makseyn-Kelley indicated that appellant reported to her duty station at 8:00 a.m. and left on the 8:25 a.m. shuttle to the mall museum. The accident occurred at 9:10 a.m. as she was getting off the shuttle.

By decision dated November 26, 2008, the Office denied modification of its June 19, 2008 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 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.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury of an occupational disease.³

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *See Irene St. John*, 50 ECAB 521 (1999); *Michael I. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 2.

In order to determine whether an employee actually sustained an 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, which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident or exposure, which is alleged to have occurred.⁴ In order to meet her burden of proof to establish the fact that she sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that she actually experienced the employment injury or exposure at the time, place and in the manner alleged.⁵

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁶ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.⁷ The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.⁸

ANALYSIS

The Office accepted that on March 27, 2007 appellant fell. The record indicates that she was traveling from one site of the employing establishment to another site in a shuttle bus provided by the employing establishment when the incident occurred. The Board finds, however, that the medical evidence of record is insufficient to establish that the accepted employment incident caused an injury as claimed.

The March 27, 2007 record of Dr. Sachdeva noted the history of stepping from a bus and provided an impression of contusion of the right leg. Although he noted that appellant was stepping from a bus, he did not clearly address whether her diagnosed contusion resulted from a fall. Dr. Sachdeva failed to specifically address the causal relationship between appellant's condition and the accepted incident. The Board finds this evidence to be of diminished probative value.⁹ There is no other medical evidence from a physician that supports that the March 27, 2007 incident caused or aggravated a diagnosed medical condition.

Appellant was notified by Office letter dated May 7, 2008 that she was required to provide medical evidence containing a diagnosis and a physician's opinion regarding the cause of her injury. She failed to submit sufficient medical evidence to rectify the deficiencies in her

⁴ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995).

⁵ *Linda S. Jackson*, 49 ECAB 486 (1998).

⁶ *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined).

⁷ *Lourdes Harris*, 45 ECAB 545 (1994); see *Walter D. Morehead*, 31 ECAB 188 (1979).

⁸ *Charles E. Evans*, 48 ECAB 692 (1997).

⁹ *Elaine Pendleton*, *supra* note 2; *Michael I. Smith*, *supra* note 3.

claim. The Board finds that appellant failed to provide sufficient medical evidence to establish that she sustained an injury resulting from the March 27, 2007 employment incident. She failed to meet her burden of proof.

CONCLUSION

The Board finds that appellant failed to establish that she sustained an injury on March 27, 2007, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated November 26, 2008 is affirmed.

Issued: November 16, 2009
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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