

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

Y.H., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Greensboro, NC, Employer**

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**Docket No. 09-1271
Issued: January 5, 2010**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On April 16, 2009 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decision dated March 26, 2009 denying an injury causally related to her federal employment. 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 has met her burden of proof to establish that she sustained an injury on August 18, 2008 in the performance of duty.

FACTUAL HISTORY

On August 25, 2008 appellant, then a 43-year-old mail processing equipment mechanic, filed a traumatic injury claim alleging that a bug bit her while she was sleeping on August 18, 2008 while on training and staying in a hotel. On the reverse of the form, the employing establishment noted that she was in a temporary-duty status attending training in Norman, Oklahoma.

In a letter dated September 2, 2008, the Office requested additional factual and medical evidence from appellant and allowed 30 days for a response. In a report dated August 22, 2008, Dr. William B. Kruse, a physician, diagnosed cellulitis. In a form report dated August 22, 2008, he diagnosed contact dermatitis with vesicles on both feet. Appellant submitted a factual statement dated September 17, 2008, noting that both of her big toes were itching and painful. Her right big toe was swollen.

By decision dated October 6, 2008, the Office denied appellant's claim finding that she had not established that her medical condition resulted from an employment exposure.

Appellant requested an oral hearing on October 28, 2008. She submitted additional medical evidence, including an emergency room report from Dr. Kruse noting that she described "bullous-type lesions" with itching on her feet. Dr. Kruse noted that appellant had received a diagnosis of contact dermatitis from an urgent care clinic. He opined that appellant had a streptococcus or staphylococcus infection and diagnosed cellulitis. The nurse described appellant's condition as blisters/vesicles on her feet with itching.

On February 9, 2009 appellant alleged that on Monday August 18, 2009 she felt a sting in her right big toe and thought that an insect had bitten her. On Tuesday, August 19, 2009, she awoke at 1:00 a.m. because she felt something crawling on her. Appellant changed hotel rooms. She sought treatment from a nurse on Tuesday and Thursday and consulted a physician on Friday, August 22, 2008 due to swelling and blisters causing stinging and itching. Appellant testified at her oral hearing on February 9, 2009 that she did not see any insects which might have bitten her.

By decision dated March 26, 2009, the hearing representative found that appellant had not submitted sufficient medical evidence to establish a causal relationship between her diagnosed condition and her employment.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition is causally related to factors of his federal employment. Where an employee is on a temporary-duty assignment away from his regular place of employment, he is covered by the Act 24 hours a day with respect to any injury that results from activities essential or incidental to his temporary assignment.²

However, the fact that an employee is on a special mission or in travel status during the time a disabling condition manifests itself does not raise an inference that the condition is causally related to the incidents of the employment. A condition that occurs spontaneously during a special mission or in travel status is not compensable. The medical evidence must

¹ 5 U.S.C. §§ 8101-8193.

² *Susan A. Filkins*, 57 ECAB 630 (2006); *Cherie Hutchings*, 39 ECAB 639 (1988).

establish a causal relationship between the condition and factors of employment.³ In order to determine whether 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. The second component is whether the employment incident caused a personal injury. Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁴ Such opinion of the physician must be one of reasonable medical certainty and must be supported by medical reasoning explaining the nature of the relationship between the diagnosed condition and the employment.⁵

ANALYSIS

In support of her claim for cellulitis or contact dermatitis, appellant submitted medical records from Dr. Kruse, a physician, dated August 22, 2008. Dr. Kruse provided findings on physical examination and diagnosed cellulitis. However, he failed to provide any explanation of the cause of appellant’s condition. Dr. Kruse did not explain how appellant’s condition was causally related to the activities essential or incidental to her temporary-duty assignment. This evidence is insufficient to establish causal relation. Therefore, the Office properly denied her claim.

CONCLUSION

The Board finds that appellant failed to submit the necessary medical opinion evidence to meet her burden of proof and that the Office properly denied her claim.

³ *Id.*

⁴ *Steven S. Saleh*, 55 ECAB 169, 171-72 (2003).

⁵ *Leslie C. Moore*, 52 ECAB 132, 134 (2000).

ORDER

IT IS HEREBY ORDERED THAT the March 26, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 5, 2010
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