

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

J.P., Appellant

and

**DEPARTMENT OF THE ARMY, ARMY
NATIONAL GUARD, Del Valle, TX, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 09-1357
Issued: January 8, 2010**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 1, 2009 appellant filed a timely appeal of a March 11, 2009 decision of the Office of Workers' Compensation Programs denying her claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(e), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained a traumatic injury on June 26, 2008 in the performance of duty.

FACTUAL HISTORY

On January 7, 2009 appellant, then a 27-year-old aircraft mechanic, filed a traumatic injury claim alleging that on June 26, 2008 she injured her upper right hip while stepping off an aircraft onto an aircraft stand. She stated that she felt a sharp pain in her right leg in the hip area. Appellant did not stop work.

On January 7, 2009 the Office advised appellant of the medical evidence necessary to establish her claim and allowed her 30 days to submit such evidence. In particular, it requested a

physician's report with a diagnosis and opinion explaining how the alleged work incident caused or aggravated her claimed injury.

In a March 11, 2009 decision, the Office denied appellant's claim finding that she did not meet the requirements to establish that appellant sustained an injury as defined by the Federal Employees' Compensation Act.

LEGAL PRECEDENT

An employee seeking benefits under the Act¹ has the burden of establishing the essential elements of 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 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

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.⁴

ANALYSIS

Appellant alleged that she injured her right hip while stepping off an aircraft and onto an aircraft stand while at work on June 26, 2008. There is no evidence disputing the occurrence of this incident and the employing establishment did not controvert the claim. The Board finds that this incident, stepping from an aircraft onto an aircraft stand on June 26, 2008, occurred as

¹ 5 U.S.C. §§ 8101-8193.

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

³ *Id.*

⁴ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

alleged.⁵ However, appellant has not met her burden of proof in establishing her claim because she has not submitted any medical evidence establishing that the June 26, 2008 employment incident caused or aggravated a diagnosed medical condition.

On January 7, 2009 the Office advised appellant of the medical evidence necessary to establish her claim and allowed her 30 days to submit such evidence. However, appellant did not submit any medical evidence that was received prior to the Office's March 11, 2009 decision.⁶ The record does not contain any medical reports from a physician explaining how stepping off of an aircraft on June 26, 2008 caused or aggravated her claimed right hip condition. As noted, part of a claimant's burden of proof includes the submission of rationalized medical evidence addressing whether there is a causal relationship between the employee's diagnosed condition and employment factors.

For these reasons, appellant did not meet her burden of proof to establish that she sustained an injury on June 26, 2008 causally related to her federal employment.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained a traumatic injury on June 26, 2008 in the performance of duty.

⁵ *M.H.*, 59 ECAB ___ (Docket No. 08-120, issued April 17, 2008) (an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence).

⁶ The record on appeal contains evidence received after the Office issue the March 11, 2009 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.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated March 11, 2009 is affirmed.

Issued: January 8, 2010
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board