United States Department of Labor
Employees' Compensation Appeals Board

J.C., Appellant	)	
	)	
and	)	**Docket No. 10-30**
	)	**Issued: July 9, 2010**
U.S. POSTAL SERVICE, POST OFFICE, Fife, WA, 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
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 23, 2009 appellant filed a timely appeal from a September 23, 2008 merit decision of the Office of Workers' Compensation Programs that denied his claim. 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 established that he sustained an injury in the performance of duty on January 18, 2008, causally related to his employment.

FACTUAL HISTORY

On May 8, 2008 appellant, a 42-year-old postal employee, filed a traumatic injury claim[1] (Form CA-1) for "debris in [his] eyes," a right hip condition, "an increase[d] rating of service

[1] Appellant originally filed a notice of recurrence of disability (Form CA-2a). Following a telephone interview on August 12, 2008, during which the difference between an occupational disease claim (Form CA-2), a traumatic injury claim (Form CA-1), and a notice of recurrence of disability claim (Form CA-2a) were explained, appellant elected to administratively change his claim to a traumatic injury claim.

connected [*sic*] disability," as well as post-traumatic stress disorder (PTSD). He attributed these conditions to a January 18, 2008 incident when he was placed on light duty.

Appellant submitted a January 18, 2008 note containing a job offer and a description of his light-duty assignment.

By letter dated August 22, 2008, the Office notified appellant that he had not submitted sufficient evidence supporting his claim. It advised appellant that he needed to submit additional evidence and provided guidance concerning the type of evidence required.

The employing establishment controverted the claim. By decision dated September 23, 2008, the Office denied the claim because appellant had not established fact of injury.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of proof to establish the essential elements of his claim by the weight of the evidence,[3] including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.[4] As part of his burden, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background showing causal relationship.[5] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.[6]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. 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.[7] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[8]

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[2] 5 U.S.C. §§ 8101-8193.

[3] *J.P.*, 59 ECAB ___ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

[4] *G.T.*, 59 ECAB ___ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[5] *Id.*; *Nancy G. O'Meara*, 12 ECAB 67, 71 (1960).

[6] *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

[7] *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *Edward C. Lawrence*, 19 ECAB 442, 445 (1968).

[8] *T.H.*, 59 ECAB ___ (Docket No. 07-2300, issued March 7, 2008); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

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.[9]

ANALYSIS

Appellant identified being placed on light duty on January 18, 2008 as the employment incident he deems responsible for his condition. The Board finds that the record contains nothing contradicting appellant's assertion that he was placed on light duty on the day in question. Although the employing establishment controverted the claim generally, it did not deny appellant's allegation that he was placed on light duty on January 18, 2008. The Board thus finds that appellant has established incident.

Appellant has not explained in any detail why being placed on light duty would have caused the multiple medical conditions he has alleged. To establish a *prima facie* claim he must also submit medical evidence that the alleged employment incident caused a medically diagnosed injury. As noted above, causal relationship is a medical issue that can only be proven by probative medical opinion evidence. The Office notified appellant that he needed to submit additional evidence supporting his claim and advised him of the type of evidence required. Appellant submitted no medical opinion evidence supporting his claim and, consequently, has not established a causal relationship between the employment incident and his alleged medical conditions. Although he submitted additional evidence on appeal, the Board's jurisdiction is limited to the evidence of record when the Office rendered its decision and, therefore, may not consider evidence for the first time on appeal.[10]

An award of compensation may not be based on surmise, conjecture or speculation.[11] Neither the fact that appellant's claimed condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.[12] The fact that a condition manifests itself or worsens during a period of employment[13] or that work activities produce symptoms revelatory of an underlying

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

[10] 20 C.F.R. § 501.2(c). *See J.T.*, 59 ECAB ___ (Docket No. 07-1898, issued January 7, 2008) (holding the Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision).

[11] *Edgar G. Maiscott*, 4 ECAB 558 (1952) (holding appellant's subjective symptoms and self-serving declarations do not, in the opinion of the Board, constitute evidence of a sufficiently substantial nature).

[12] *D.I.*, 59 ECAB ___ (Docket No. 07-1534, issued November 6, 2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

[13] *E.A.*, 58 ECAB 677 (2007); *Albert C. Haygard*, 11 ECAB 393, 395 (1960).

condition[14] does not raise an inference of causal relationship between a claimed condition and an employment incident.

Because the medical evidence contains no reasoned discussion of causal relationship, one that soundly explains how the established employment incident caused or aggravated a diagnosed medical condition, the Board finds appellant has not established the essential element of causal relationship.

CONCLUSION

The Board finds appellant has not established that he sustained an injury in the performance of duty on January 18, 2008, causally related to his employment

ORDER

IT IS HEREBY ORDERED THAT the September 23, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 9, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

[14] *D.E.*, 58 ECAB 448 (2007); *Fabian Nelson*, 12 ECAB 155, 157 (1960).