United States Department of Labor
Employees' Compensation Appeals Board

D.W., Appellant	)	
and	)	**Docket No. 10-350**
	)	**Issued: September 7, 2010**
U.S. POSTAL SERVICE, POST OFFICE, Washington, D.C., 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 November 10, 2009 appellant filed a timely appeal from a May 13, 2009 merit decision of the Office of Workers' Compensation Programs' denying his traumatic injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant sustained a traumatic injury to his left hand and shoulder on September 12, 2008.

FACTUAL HISTORY

On September 22, 2008 appellant, a 49-year-old Equal Employment Opportunity alternate dispute resolution program analyst, filed a traumatic injury claim alleging that he sustained injuries to his left hand and shoulder when he blacked out and fell to the conference room floor due to stress on September 12, 2008. The employing establishment was allegedly aware that he suffered from chronic hypertension.

Appellant submitted a September 12, 2008 disability slip from Dr. H. Zimmerman, a treating physician, who diagnosed headache, hypertension, syncope and weakness. In a September 23, 2008 work excuse, Dr. John H. Pope, Board-certified in the field of family medicine, recommended a 30-day leave due to recent problems which resulted in hospitalization.

The employing establishment controverted the claim on the grounds that appellant's fall did not occur in the performance of duty, as it was not related to a specific work factor.

In an October 6, 2008 letter, the Office informed appellant that the evidence and information submitted was insufficient to establish that he had experienced the incident as alleged. Appellant was advised to submit details surrounding the claimed event, as well as a medical report which contained a diagnosis and a reasoned opinion as to the cause of the diagnosed condition.

Appellant submitted a September 13, 2008 medication record, bearing an illegible signature, from the Georgetown University Hospital emergency department; a September 13, 2008 report of a magnetic resonance imaging (MRI) scan of the brain; and an October 23, 2008 prescription for physical therapy from Dr. N.D. Boardman, III, a Board-certified orthopedic surgeon, who diagnosed left rotator cuff bursitis. On October 27, 2008 Dr. Nazir A. Chaundhary, a treating physician, diagnosed adjustment disorder with depressed mood.

Appellant submitted July 18 and August 6, 2008 reports from Dr. Pope reflecting a diagnosis of chronic hypertension. In a September 30, 2008 attending physician's report, Dr. Pope stated that appellant had experienced an episode of syncope on September 12, 2008, "which resulted in him blacking out, falling back and injuring his left hand and shoulder." His findings included "abnormal [computerized tomography] of the head, injury to left hand and left shoulder that was evaluated at Georgetown."

In a September 22, 2008 attending physician's report, Dr. Ibrahim M. Hegab, a treating physician, diagnosed cervical radiculitis, in addition to the primary diagnosis of syncope. He stated that appellant fell after blacking out on September 12, 2008, hitting his left hand and shoulder. Appellant was experiencing "shooting pain along the medial nerve of the left hand." His September 23, 2008 report reflected appellant's belief that he fractured his left index finger when he lost consciousness and fell at work on the date in question. Since the fall, he had experienced shooting electrical shock-like pains running from the anterior shoulder to the left index finger. Dr. Hegab provided examination findings and diagnosed syncope, cervical radiculopathy and acute reaction to stress. On October 22, 2008 he provided examination findings, noting that nerve conduction studies were normal.

In an undated statement, appellant alleged that he became angry on September 12, 2008 during a conversation with Coworker Tracy Wattree Bond. As a result of the confrontation, he fell on the floor and hurt his left hand and shoulder.

By decision dated November 13, 2008, the Office denied appellant's claim on the grounds that the medical evidence failed to establish that he was injured in the performance of duty. On November 17, 2008 appellant requested an oral hearing.

During a March 2, 2008 telephonic hearing, appellant testified that during a meeting with Ms. Bond on September 12, 2008, he was told that his work would be monitored because he was not completing assignments on time. He became dizzy. When appellant stood up, he blacked out and fell on his left hand. His left shoulder hit a chair as he fell to the floor. For two or three months, appellant was unable to use his hand, which was diagnosed with a bruised nerve in the left index finger. His left shoulder received a diagnosis of impingement syndrome.

In an undated statement, appellant reiterated that his fall was due to "being provoked" by Ms. Bond and that he worked in a stressful and hostile work environment. On April 30, 2009 Ms. Bond denied that she raised her voice or abused appellant during the September 12, 2008 meeting.

In a decision dated May 13, 2009, an Office hearing representative affirmed the November 13, 2008 decision, which he modified to reflect denial based on failure to establish a causal relationship between a diagnosed condition and the established event. The representative found that the evidence was sufficient to establish that the incidents occurred as alleged, but that the syncopal episode remained an unexplained fall which occurred while appellant was engaged in activities incidental to his employment duties. As the Office failed to establish that the fall was due to a personal, nonoccupational pathology, appellant's injury was compensable. Regarding the medical evidence, the hearing representative stated:

> "A careful and thorough review of the medical evidence of record, fails to reflect any medical evidence providing an accurate history of injury, definitive diagnosis regarding the claimant's left shoulder and/or hand and unequivocal opinion regarding causal relationship between the accepted fall and diagnosis (es) provided, supported by medical rationale."

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides for payment of compensation for disability or death of an employee, resulting from personal injury sustained while in the performance of duty.[1] The phrase "sustained while in the performance of duty" is regarded as the equivalent of the coverage formula commonly found in workers' compensation laws, namely, "arising out of and in the course of employment."[2]

An employee seeking benefits under the Act has the burden of proof to establish the essential elements of his claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[3] When an employee claims that he sustained a

[1] 5 U.S.C. § 8102(a).

[2] This construction makes the statute effective in those situations generally recognized as properly within the scope of workers' compensation law. *Charles E. McAndrews*, 55 ECAB 711 (2004); *see also Bernard D. Blum*, 1 ECAB 1 (1947).

[3] *Robert Broome*, 55 ECAB 339 (2004).

traumatic injury in the performance of duty, he must establish the "fact of injury," consisting of two components which must be considered in conjunction with one another. The first is whether the employee actually experienced the incident that is alleged to have occurred at the time, place and in the manner alleged. The second is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[4]

It is a well-settled principle of workers' compensation law that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface and there is no intervention or contribution by any hazard or special condition of employment -- is not within coverage of the Act.[5] Such an injury does not arise out of a risk connected with the employment and is therefore not compensable. The fact, however, that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition. This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to such general rule.[6] If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted and caused the fall.[7]

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.[8] An award of compensation may not be based on appellant's belief of causal relationship.[9] Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents, is sufficient to establish a causal relationship.[10] Simple exposure to a workplace hazard does not constitute a work-related injury entitling an employee to medical treatment under the Act.[11]

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 that includes a physician's rationalized opinion on whether

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[4] *Deborah L. Beatty*, 54 ECAB 340 (2003). *See also Tracey P. Spillane*, 54 ECAB 608 (2003); *Betty J. Smith*, 54 ECAB 174 (2002). The term "injury" as defined by the Act, refers to a disease proximately caused by the employment. 5 U.S.C. § 8101(5). *See* 20 C.F.R. § 10.5(q), (ee).

[5] *See Carol A. Lyles*, 57 ECAB 265 (2005).

[6] *Dora J. Ward*, 43 ECAB 767, 769 (1992); *Fay Leiter*, 35 ECAB 176, 182 (1983).

[7] *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988); *Martha G. List*, 26 ECAB 200 (1974).

[8] *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

[9] *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

[10] *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[11] 20 C.F.R. § 10.303(a).

there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion must be based on a complete factual and medical background of the claimant, 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 established incident or factor of employment.[12]

Under section 8103(a) of Act, the Office is required by statute and regulations to make findings of fact in making a determination regarding entitlement to compensation benefits.[13] Office procedure further specifies that a final decision of the Office must include findings of fact and provide clear reasoning which allows the claimant to understand the precise defect of the claim and the kind of evidence which would tend to overcome it.[14] These requirements are supported by Board precedent.[15]

ANALYSIS

The Office hearing representative accepted that appellant fell in the performance of duty on September 12, 2008 as alleged and that any resulting injuries were compensable. He determined, however, that the medical evidence was insufficient to establish a causal relationship between the accepted fall and a diagnosed condition. The Board finds that the hearing representative's decision does not contain adequate facts and findings or clear reasoning, to allow appellant to understand the precise defects of his claim and how to overcome them.[16]

The hearing representative stated that he had performed a careful and thorough review of the medical evidence, which failed to provide an accurate history of injury, definitive diagnosis and unequivocal opinion regarding causal relationship supported by medical rationale. He did not, however, specifically address any of the medical reports of record or explain how they were insufficient to establish that appellant had sustained an injury as a result of the accepted fall. The hearing representative's blanket statement that appellant failed to provide sufficient medical evidence does not meet the requirements of the Act or the Office's procedures.[17]

For these reasons, the Office's stated justification for denying appellant's claim is insufficient. The case will be remanded to the Office for the provision of additional facts and

[12] *John W. Montoya*, 54 ECAB 306 (2003).

[13] 5 U.S.C. § 8124(a) provides: The [Office] shall determine and make a finding of facts and make an award for or against payment of compensation. 20 C.F.R. § 10.126 provides in pertinent part that the final decision of the Office shall contain findings of fact and a statement of reasons.

[14] *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.4 (July 1997).

[15] *See T.K.*, 61 ECAB ___ (Docket No. 09-1729, issued May 10, 2010); *James D. Boller, Jr.*, 12 ECAB 45, 46 (1960).

[16] *See supra* notes 12 and 13 and accompanying text.

[17] *See supra* notes 13 and 14 and accompanying text.

findings in support of its determination.[18] After such development it deems necessary, the Office shall issue an appropriate decision.[19]

CONCLUSION

The Board finds that this case is not in posture for decision as to whether or not appellant sustained an injury in the performance of duty on September 12, 2008.

ORDER

IT IS HEREBY ORDERED THAT the May 13, 2009 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further development consistent with this decision.

Issued: September 7, 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

[18] *See T.K., supra* note 15 and accompanying text.

[19] The Board notes that appellant requested oral argument. As the case is not in posture for a decision, the Board finds that oral argument is unnecessary in this instance. Consequently, the Board, in its discretion, denies appellant's request for oral argument. *See* 20 C.F.R. § 501.5(a), (b) (2009).