United States Department of Labor
Employees' Compensation Appeals Board

S.H., Appellant	)	
and	)	**Docket No. 10-1952**
	)	**Issued: May 5, 2011**
DEPARTMENT OF THE AIR FORCE, HILL AIR FORCE BASE, UT, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On July 15, 2010 appellant filed a timely appeal of an April 29, 2010 decision of the Office of Workers' Compensation Programs denying his claim for toxic exposure. Pursuant to the Federal Employees' Compensation Act[1] and 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 met his burden of proof to establish that he sustained an injury in the performance of duty due to a chemical exposure at work on June 30, 2009.

FACTUAL HISTORY

On December 23, 2009 appellant, then a 59-year-old aircraft pneudraulic systems mechanic, filed a traumatic injury claim (Form CA-1) alleging that on June 30, 2009 he was exposed to a hazardous substance while performing aircraft maintenance. In a June 30, 2009

[1] 5 U.S.C. § 8101 *et seq.*

safety report, the employing establishment explained that he smelled hydrazine while disconnecting a hydrazine fuel hose on an aircraft that day. "No spill or leakage was noted and" a "hydrazine response team was called to purge" the system. [Appellant] was sent to [the emergency room] to get checked out."[2]

In a June 30, 2009 hospital emergency room form, appellant stated that, while disconnecting a plug on the hydrazine blow of an F-16 aircraft, he smelled ammonia and realized something was wrong. A summary form noted a history of asthma. Dr. James F. Arango, an attending physician Board-certified in emergency medicine, noted that appellant was exposed briefly to hydrazine and developed nausea, lightheadedness and a headache. On examination he observed normal breath sounds, normal heart rate and rhythm, no neurologic signs and normal airways. Dr. Arango diagnosed hydrazine inhalation exposure. He stated that no further treatment was required and that no permanent impairment was expected. Dr. Arango instructed appellant to follow up with his attending physician if necessary and get plenty of fluids and rest. He released appellant to full duty as of June 30, 2009 but recommended that he "go home rather than back to work/exposure tonight."

In a January 20, 2010 letter,[3] the Office advised appellant of the deficiencies in the evidence and of the additional factual and medical evidence needed to establish his claim. It emphasized the need for a detailed report from his attending physician explaining how and why the identified hydrazine exposure would cause a medical condition. Appellant was afforded 30 days in which to submit such evidence. The record establishes that appellant did not submit any additional evidence prior to the issuance of the April 29, 2010 decision.

By decision dated April 29, 2010, the Office denied the claim on the grounds that fact of injury was not established. It accepted that the June 30, 2009 hydrazine exposure occurred at the time, place and in the manner alleged. The Office found, however, that appellant did not submit medical evidence supporting a causal relationship between the accepted hydrazine exposure and any medical condition.

LEGAL PRECEDENT

An employee seeking benefits under the Act 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 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

[2] In a July 30, 2009 incident report, the employing establishment confirmed that appellant was potentially exposed to hydrazine while performing aircraft maintenance at 11:45 p.m. on June 29, 2009.

[3] The Office mailed a January 5, 2010 development letter to an incorrect address. On January 20, 2010 it sent the same letter with a corrected address to appellant's address of record.

employment injury.[4] 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.[5]

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. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident that is alleged to have occurred.[6] 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.[7]

An award of compensation may not be based on appellant's belief of causal relationship.[8] 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.[9] Simple exposure to a workplace hazard does not constitute a work-related injury entitling an employee to medical treatment under the Act.[10]

ANALYSIS

The Office accepted that on June 30, 2009 appellant was exposed to hydrazine while performing assigned aircraft maintenance. The employing establishment confirmed appellant's account of hydrazine inhalation while disconnecting a fuel hose. Appellant submitted sufficient evidence to establish an occupational exposure to hydrazine on June 30, 2009.[11] In order to meet his burden of proof, he must also submit sufficient medical evidence to establish that the accepted hydrazine exposure caused an injury. The Board finds, however, that appellant did not submit such evidence.

In support of his claim, appellant submitted June 30, 2009 reports from Dr. Arango, a physician Board-certified in emergency medicine. Dr. Arango stated that appellant presented with a headache, nausea and lightheadedness after briefly inhaling hydrazine at work. There were no neurologic or respiratory abnormalities on examination. Dr. Arango diagnosed hydrazine inhalation, but did not diagnose any injury or condition related to that exposure. He

[4] *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

[6] *Gary J. Watling*, 52 ECAB 278 (2001).

[7] *Deborah L. Beatty*, 54 ECAB 340 (2003).

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

[9] *Id*.

[10] 20 C.F.R. § 10.303(a).

[11] *Gary J. Watling*, *supra* note 6.

noted that he did not need further treatment and that no permanent effects were anticipated. As stated above, simple exposure to a workplace hazard does not entitle an employee to medical treatment under the Act unless the employee has sustained an identifiable injury or medical condition as a result of that exposure.[12] In this case, the medical record does not demonstrate that appellant sustained an injury or condition from briefly inhaling hydrazine at work.[13]

The Board notes that the Office advised appellant by a January 20, 2010 letter of the necessity of submitting medical evidence explaining a causal relationship between the June 30, 2009 chemical exposure and a diagnosed injury or condition. However, appellant did not submit such evidence. Therefore, the Board finds that he has not established that he sustained any injury due to the June 30, 2009 hydrazine exposure.[14]

CONCLUSION

The Board finds that appellant has not established that he sustained an injury in the performance of duty on June 30, 2009 as he submitted insufficient medical evidence to establish that the accepted chemical exposure caused or aggravated any injury or condition.

[12] 20 C.F.R. § 10.303(a).

[13] *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

[14] *Guiseppe Aversa*, 55 ECAB 164 (2003).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 29, 2010 is affirmed.

Issued: May 5, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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