U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY DAVIS and U.S. POSTAL SERVICE,
Baltimore, MD

Docket No. 01-763; Submitted on the Record;
Issued October 25, 2001

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has met her burden of proof to establish that she sustained an injury in the performance of duty on February 9, 2000.

On July 19, 1999 appellant, then a 32-year-old rural carrier, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1). She alleged that on February 9, 2000 she sustained an injury to the small finger of her right hand as a result of being smashed between two trays of letter mail. Appellant did not stop work.

On October 11, 2000 the Office of Workers' Compensation Programs requested additional information from appellant. Specifically, the Office requested a comprehensive medical report describing appellant's symptoms, results of examinations and tests, diagnosis, the treatment provided, the effect of treatment and the doctor's opinion, with medical reasons, on the cause of the condition. Appellant was given approximately 30 days to respond.

On November 6, 2000 the Office received a statement from appellant along with a package containing unsigned treatment notes from February 15, 2000 to October 3, 2000. An October 27, 2000 report from Dr. Mary Yiassemides, a chiropractor, accompanied the notes. In her report, Dr. Yiassemides indicated that, "appellant was loading her vehicle with trays of mail, two trays shifted and 'smashed' her little finger between them." Upon physical examination, She noted that there was moderate swelling around the distal and proximal interphalangeal joints, and that range of motion was decreased and that movement caused significant pain. Dr. Yiassemides noted the need for an x-ray and found decreased joint space in the proximal interphalangeal joint indicating a subluxation. She diagnosed a strain/sprain with inflammation. Dr. Yiassemides indicated that appellant experienced pain for a long time and the treatments gave her significant relief. She stated that, due to her work, appellant continued to aggravate her condition. Dr. Yiassemides also stated that appellant's condition had significantly improved and she only had pain on days when mail was heavy.

In a decision dated November 17, 2000, the Office denied appellant's claim for compensation because fact of injury was not established.

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty on February 9, 2000.

An employee seeking benefits under the Federal Employees' Compensation 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 of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury."[1] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.[2]

In order to determine whether an employee actually sustained an 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 which must be considered in conjunction with one another.

The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[3]

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.[4]

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician 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 specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[5]

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[1] *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[2] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

[3] *Elaine Pendleton*, *supra* note 1.

[4] *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

[5] *James Mack*, 43 ECAB 321 (1991).

In the instant case, there is no dispute that appellant was an "employee" within the meaning of the Act, nor that appellant timely filed her claim for compensation. Nevertheless, a person who claims benefits for a work-related condition has the burden of establishing by the weight of the medical evidence, a firm diagnosis of the condition claimed and a causal relationship between that condition and factors of federal employment.[6] In this case, appellant failed to submit any medical evidence providing a firm diagnosis of an injury or addressing whether her injury was related to her February 9, 2000 work incident. The medical evidence submitted by appellant consisted of chiropractic treatment notes and reports. The treatment notes and reports were of no probative value as the Federal Employees' Compensation Act[7] recognizes chiropractors as physicians only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist. In the instant case, Dr. Yiassemides diagnosed a subluxation of the right fifth finger. As her diagnosis was not of the spine, her reports are of no probative value. Consequently, there is no medical evidence diagnosing a traumatic injury causally related to the employment incident of February 9, 2000.[8] The Office advised appellant of the deficiency in the medical evidence, but appellant failed to submit rationalized medical opinion evidence addressing the relevant issues. Appellant, therefore, failed to meet her burden of proof.[9]

[6] *Patricia Bolleter*, 40 ECAB 373 (1988).

[7] 5 U.S.C. § 8101 *et seq.*

[8] *Arlonia B. Taylor*, 44 ECAB 591 (1993).

[9] The Board notes that subsequent to the Office's April 7, 2000 decision, appellant submitted additional evidence. The Board has no jurisdiction to review this evidence for the first time on appeal. 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).

The decision of the Office of Workers' Compensation Programs dated November 17, 2000 is affirmed.

Dated, Washington, DC
October 25, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Member