

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SANTOSH C. VERMA and DEPARTMENT OF VETERANS AFFAIRS,
LOS ANGELES AMBULATORY CARE CENTER, Los Angeles, CA

*Docket No. 00-1512; Submitted on the Record;
Issued December 12, 2001*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant established that he sustained an injury in the performance of duty on December 24, 1998.

In a decision dated January 7, 2000, a hearing representative of the Office of Workers' Compensation Programs accepted that appellant, a 61-year-old chief engineer, sustained a back sprain as a consequence of a fall at work on December 24, 1998. The Office hearing representative, however, affirmed the prior denial of the claim based upon a finding that appellant's fall was idiopathic in nature.¹ She explained that appellant's preexisting psychiatric condition caused him to suffer a "dizzy, fainting spell," which precipitated his fall.² The hearing representative further found that appellant fell to the floor without intervention or hazard of the employer.

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty on December 24, 1998.

It is a well-settled principle of workers' compensation law, and the Board has so held, 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 Federal Employees' Compensation Act.³ Such an

¹ The Office initially denied the claim by decision dated March 5, 1999.

² Appellant was diagnosed with major depressive disorder and generalized anxiety disorder with panic attacks dating back to 1994. While appellant alleged that his psychiatric condition was employment related, the hearing representative noted that this issue was the subject of a separate claim (A13-1166964) that had previously been denied. The hearing representative advised appellant that if his other claim was later accepted, he might consider filing a claim for a consequential back injury arising on December 24, 1998. The Board notes that appellant's other claim (A13-1166964) is currently pending appeal under Docket No. 00-2034.

³ *John R. Black*, 49 ECAB 624, 626 (1998).

injury does not arise out of a risk connected with the employment and is therefore not compensable. However, as the Board has made equally clear, the fact 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.⁴ 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 the fall and caused the fall.⁵

The medical evidence of record establishes that appellant's December 24, 1998 fainting episode was due to his preexisting psychiatric condition. Appellant's family physician, Dr. Chunilal Shah, and his psychiatrist, Dr. Samuel Albert, both attributed his December 24, 1998 fainting episode to job-related stress, anxiety and depression. Additionally, both physicians indicated that medication prescribed for the treatment of appellant's psychiatric condition possibly contributed to his fainting spell.

A physician's opinion that a psychiatric or emotional condition is employment related is not, of itself, sufficient to establish a compensable employment-related condition under the Act. The Office must first determine whether appellant identified any compensable employment factors as the cause of his claimed emotional condition.⁶ In the instant case, appellant did not attribute his December 24, 1998 fainting episode to any employment-related stressors arising that day. Instead, appellant explained that he suffered from extreme job stress for a long time prior to his December 24, 1998 fainting episode. The hearing representative correctly noted that appellant was unsuccessful in his prior efforts to establish the existence of an employment-related emotional condition based upon similarly alleged long-standing job stress. As appellant's prior claim was pending further review by the Branch of Hearings and Review, the Office hearing representative properly declined to address the issue in the present claim. Thus, having failed to establish that his psychiatric condition was employment related, the hearing representative properly concluded that appellant's preexisting psychiatric condition was of a personal, nonoccupational pathology, and therefore, his fall due to a fainting spell was idiopathic in nature. Furthermore, Drs. Albert and Shah clearly attributed appellant's fainting episode to his preexisting psychiatric condition. The instant case does not involve an unexplained fall. Accordingly, the Board finds that appellant's December 24, 1998 fall was idiopathic in nature.

The remaining issue is whether appellant struck anything as he fell to the floor on December 24, 1998. The Office hearing representative found there was no intervention or contribution by any hazard or special condition of employment. In his Form CA-1, appellant described the December 24, 1998 incident as follows: "I had a dizzy spell and fell down from the chair while working in my office." No witnesses to the December 24, 1998 incident were identified.

⁴ *Id.*; *Lowell D. Meisinger*, 43 ECAB 992, 1000-01 (1992); *Dora J. Ward*, 43 ECAB 767, 769-70 (1992).

⁵ *John R. Black*, *supra* note 3.

⁶ *John Polito*, 50 ECAB 347, 348 (1999).

Appellant first sought treatment for his injury on December 28, 1998. At that time, Dr. Earl Tso, an employing establishment physician, placed appellant on light duty for two weeks. However, Dr. Tso's December 28, 1998 emergency treatment report does not include a diagnosis or a history of injury. The following day, appellant reportedly saw his family physician, Dr. Shah. The record, however, does not include a contemporaneous report from Dr. Shah. On December 30, 1998 Dr. James H. Richardson, II, a chiropractor, examined appellant and, in a report dated January 25, 1999, noted a history of injury as follows: "[Appellant] had a blackout/dizziness and [he] fell down from the chair and twisted [his] back and head on the floor." In a subsequent report dated March 12, 1999, Dr. Richardson wrote "he started to arise from his office chair and suffered faintness, blacked out, collapsed, and fell to the floor wrenching his neck and back."

The first indication that appellant struck anything prior to hitting the floor appeared in his March 15, 1999 statement, wherein he described the December 24, 1998 incident as follows: "I tried to get up from my office chair, and I was shaky. Something happened to me, I had a blackout in my opinion. I fell down on the floor and twisted myself. My feet hit the case molding and the chair arm-twisted me when I fell on the floor." When questioned about the incident at the October 21, 1999 hearing, appellant was unsure of whether he struck anything prior to hitting the floor.⁷ He testified "I might have hit this edge here, I might have. But I was unconscious for a few seconds, I would say, maybe 30 second [sic], one minute, I can't tell how long." Additionally, appellant did not testify about the role his chair purportedly played in his December 24, 1998 fall.

Subsequent to the hearing, appellant submitted an October 25, 1999 report from Dr. Shah. This is the only medical documentation referencing the possibility of appellant having struck something during the course of his December 24, 1998 fall. In his report, Dr. Shah stated, "[appellant] described to me that he had a dizzy spell or fainted when he got up from the office chair, he lost his balance and fell down to the floor. His feet hit the modular furniture floor level drawer projection and twisted his body." Noticeably absent from Dr. Shah's report is any reference to appellant's chair having contributed to his injury.

The Board finds the evidence of record insufficient to establish that appellant's office chair or desk contributed to his December 24, 1998 fall. As noted, no one witnessed the December 24, 1998 incident and appellant did not initially implicate any office furnishings as a contributing factor to his injury. Neither Form CA-1 nor Dr. Richardson's January 25 and March 12, 1999 reports indicate that appellant struck his desk or became entangled in his office chair when he fell on December 24, 1998. It was not until approximately three months after the December 24, 1998 incident that appellant informed the Office that his "feet hit the case molding and the chair arm-twisted [him] when [he] fell on the floor." However, appellant's March 15, 1999 statement is undermined by his subsequent testimony at the October 21, 1999 hearing. He was not only equivocal as to whether he struck anything during the fall, but he also admitted he lost consciousness for possibly one minute. Given appellant's testimony, Dr. Shah's post-hearing report is of limited probative value. Moreover, Dr. Shah's October 25, 1999 report is

⁷ The hearing representative explained to appellant the significance of whether or not he hit something during the course of his fall. She specifically stated, "If you hit something on the way down, then it would be compensable." And the hearing representative further stated that "otherwise it would be an idiopathic fall."

itself equivocal as he merely noted that appellant's "feet quite *possibly* hit the floor level modular furniture cabinet drawer's projection." (Emphasis added.)

Under the circumstances, the record is insufficient to establish that appellant struck anything other than the floor when he fell on December 24, 1998. There were no witnesses to the incident and appellant did not initially report that he struck his desk or became entangled in his chair on December 24, 1998. Moreover, appellant was admittedly unconscious for a period of time, thereby calling into question his ability to accurately relate the circumstances of his fall. Lastly, the timing of Dr. Shah's October 25, 1999 report and its equivocal nature undermine the probative value of this evidence. Accordingly, the Office hearing representative properly concluded that appellant's fall was idiopathic in nature, and therefore, appellant was not entitled to compensation.

The January 7, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
December 12, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member