United States Department of Labor
Employees' Compensation Appeals Board

GLADYS M. PARKS, Appellant	)	
and	)	**Docket No. 05-1272**
	)	**Issued: November 3, 2005**
DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, Washington, DC, Employer	)	

Appearances:
Gladys M. Parks, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
WILLIE T.C. THOMAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On May 24, 2005 appellant filed a timely appeal from the June 8, 2004 merit decision of the Office of Workers' Compensation Programs' finding that she did not sustain an injury while in the performance of duty. She also appeals the Office's September 10, 2004 merit decision, denying modification of the June 8, 2004 decision. 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 has established that she sustained an injury while in the performance of duty on February 4, 2003.

FACTUAL HISTORY

On July 9, 2003 appellant, then a 55-year-old maintenance worker, filed a traumatic injury claim alleging that on February 4, 2003 she sustained injury to her head and neck and

experienced traumatic mental disorder, when she struck her head and fell in the employing establishment.

In an April 25, 2003 medical report, Dr. Daniel R. Glor, a Board-certified neurologist, stated that he followed appellant for a seizure disorder and recently he had been treating her for headaches, neck pain and balance difficulties due to a fall at work on February 4, 2003 that was associated with a seizure. He stated that "it is not clear whether [appellant] fell first and then had a seizure or *vice versa*." Dr. Glor noted appellant's medical treatment on the date of injury and her subsequent treatment on March 13, 2003 for a severe headache and neck pain. When he saw her on April 8, 2003, her headache was better but she still experienced neck pain and her balance was so bad that she was in a wheelchair. Due to appellant's symptoms, Dr. Glor ordered magnetic resonance imaging (MRI) scans of her brain and cervical spine. He concluded that due to the above symptoms, appellant was disabled for work since February 4, 2003. In a June 25, 2003 report, Dr. Glor indicated that her most recent seizure was on February 4, 2003 and that she had a prior seizure on January 9, 2002.

A February 4, 2003 duty status report of a physician whose signature is illegible noted a history that appellant slipped and fell that date, hitting her head on the right side while leaving the police horse stables at the employing establishment. This report noted her physical limitations. In a July 30, 2003 authorization for examination and/or medical treatment (Form CA-16), Dr. Glor provided a history that on February 4, 2003 appellant fell and hit her head and experienced a seizure while leaving the police horse stables. He diagnosed seizure disorder, cervical stenosis and myelopathy. Dr. Glor indicated that the diagnosed conditions were caused by the employment activity with an affirmative mark. He noted that appellant was status post cervical laminectomy for decompression and fusion at C3, C4 and C5 and additional level of decompression at C6, which was performed on May 30, 2003.

By letter dated January 9, 2004, the Office advised appellant that the evidence submitted was insufficient to establish her claim. The Office requested additional factual and medical evidence to establish her claim. Appellant did not respond within the allotted time.

On February 11, 2004 the Office issued a decision, finding that appellant did not sustain an injury while in the performance of duty. The Office found the evidence of record sufficient to establish that the claimed incident occurred at the time, place and in the manner alleged. However, the medical evidence was insufficient to establish that appellant's fall at work was related to her employment. Accordingly, the Office denied appellant's claim.

By letter dated August 11, 2004, appellant requested reconsideration. She submitted a July 14, 2003 letter in which she described the February 4, 2003 employment incident and subsequent medical treatment she received. Appellant contended that she experienced stress due to the processing of her claim and threat of being fired by the employing establishment.

In a February 11, 2004 report, Dr. Glor noted that appellant was being treated for seizure disorder and cervical stenosis. He stated that appellant had not worked since she slipped and fell on February 4, 2003. Following the fall, she developed severe headaches, neck pain, numbness in the hands and poor balance. Dr. Glor reported that an MRI scan of the cervical spine showed severe spinal stenosis at C3-4 due to disc protrusion and a bone spur which caused severe spinal

cord compression. Appellant underwent surgery on May 30, 2003 for posterior cervical laminectomies from C3-6 with fusions from C3-5. Dr. Glor opined that, although appellant's symptoms had improved since surgery, she continued to have occasional neck pain and numbness in the hands. He addressed the duties of her janitorial job, which included mopping, cleaning bathrooms, lifting buckets of water and pulling trash. Dr. Glor further noted that appellant had been on disability from this job since September 2003. He recommended that she remain on disability as it was likely that her symptoms would worsen due to stress and strain on the spine should she begin to perform the duties of her position.

A treatment note dated July 1, 2004 from Dr. John J. Lee, an internist, indicated that appellant had diffuse lumbar spinal disease and a history of cervical laminectomy surgery. An MRI scan demonstrated soft tissue masses which affected the nerve root at L3-S2, disc bulges at T12-L1 and spinal stenosis. These conditions substantially limited appellant's activities such that she was unable to perform her regular work duties and might require further surgical repair.

By decision dated September 10, 2004, the Office denied modification. The Office found that the medical evidence of record failed to address the cause of appellant's fall on February 4, 2003.

LEGAL PRECEDENT

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 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 the coverage of the Federal Employees Compensation Act.[1] Such an injury does not arise out of a risk connected with or in the course of employment and it, therefore, is not compensable.[2] When the fall is unexplained and, therefore, attributable neither to the employment nor to the claimant personally, the risk is neutral and an injury arising in the course of employment from neutral risk is compensable.[3] 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.[4] The question of causal relationship is a medical one and must be resolved by probative medical evidence.[5] In evaluating whether the medical evidence is sufficient to meet the Office's burden of proof to establish that the claimant's fall was due to an idiopathic condition rather than an employment exposure, the

[1] 5 U.S.C. §§ 8101-8193.

[2] *Martha G. List*, 26 ECAB 200 (1974); *Gertrude E. Evans*, 26 ECAB 195 (1974); *Rebecca C. Daily*, 9 ECAB 255 (1956); *see also* A. Larson, *The Law of Workers' Compensation* §§ 9, 9.01 (2000).

[3] *Margreate Lublin*, 44 ECAB 945, 958 (1993).

[4] *Santosh C. Verma*, 53 ECAB 266, 267 (2001).

[5] *Robert J. Choate*, 39 ECAB 103 (1987); *John D. Williams*, 37 ECAB 238 (1985).

Board has considered whether there is evidence of a preexisting condition,[6] the clarity of the medical evidence attributing the fall to the idiopathic condition and the extent of the medical evidence attributing the fall to the idiopathic condition.[7] While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, neither can such opinion be speculative or equivocal. The opinion should be one of reasonable medical certainty.

ANALYSIS

In this case, it is undisputed that appellant fell and hit her head while on the employing establishment's parking lot on February 4, 2003. The Office, however, has not determined if appellant's fall was idiopathic in nature or was merely an unexplained fall. Appellant submitted medical evidence which indicates that the fall was unexplained, but occurred on the employing establishment's premises.[8] Dr. Glor noted, in an April 25, 2003 report, that he had been treating appellant for headaches, neck pain and balance difficulties due to a fall at work on February 4, 2003. He stated that "it is not clear whether [appellant] fell first and then had a seizure or *vice versa*."

Dr. Glor's July 30, 2003 and February 11, 2004 reports found that appellant slipped and fell on February 4, 2003 hitting her head. Dr. Glor indicated that appellant sustained a seizure disorder, cervical stenosis, myelopathy, headaches, numbness in the hands and poor balance as a result of the fall. None of the reports addressed the cause of appellant's fall. The fall appears to be an unexplained fall, which occurred while appellant was engaged in activities incidental to her employment. This type of fall would place the incident within the performance of duty. However, as the Office has not determined if appellant's fall on February 4, 2003 was idiopathic in nature or was merely an unexplained fall, the Board finds that the case is not in posture for decision and must be remanded for further development on this issue. On remand, should the Office conclude that the fall was of an unexplained nature, it must then determine the nature and extent of any disability causally related to the February 4, 2003 fall. After such further development as it deems necessary, the Office shall issue a *de novo* decision.

CONCLUSION

The Board finds that the case is not in posture for a decision regarding the issue of whether appellant has established that she sustained an injury while in the performance of duty

[6] *Karen K. Levene*, 54 ECAB ___ (Docket No. 02-25, issued July 2, 2003) (which the Board noted that the claimant had a diagnosis of seizure disorder of seven years duration and that her physician attributed her fall to a seizure episode).

[7] *Santosh C. Verma*, *supra* note 4 (in which the Board noted that both of appellant's treating physicians attributed the claimant's fall to a preexisting psychiatric condition consisting of stress, anxiety and depression; thus, the Board found that the fall was idiopathic in nature).

[8] Reports dated February 4 and May 12, 2003 containing an illegible signature found that on February 4, 2003 appellant slipped and fell and hit her head while leaving the employing establishment's police horse stables and that she sustained a seizure. However, the Board notes that these reports are of no probative value as the preparer cannot be identified as a physician. *See Merton J. Sills*, 39 ECAB 572 (1988).

on February 4, 2003 as a determination must be made as to whether the fall was idiopathic in nature or an unexplained fall.

ORDER

IT IS HEREBY ORDERED THAT the September 10 and June 8, 2004 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: November 3, 2005
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

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