United States Department of Labor
Employees' Compensation Appeals Board

GEORGE D. FIELD, Appellant	)	
and	)	**Docket No. 05-1823**
	)	**Issued: November 1, 2005**
U.S. POSTAL SERVICE, POST OFFICE, North Reading, MA, Employer	)	

Appearances:
George D. Field, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
WILLIE T.C. THOMAS, Alternate Judge

JURISDICTION

On August 31, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated July 19, 2005 denying appellant's claim for failure to establish that he sustained an injury in the performance of duty. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over this claim.

ISSUE

The issue is whether appellant has established that he sustained a medical condition in the performance of duty on May 31, 2005, as alleged.

FACTUAL HISTORY

On June 2, 2005 appellant, then a 40-year-old regular rural carrier, filed a traumatic injury claim alleging that, on May 31, 2005, while delivering mail on his route, he suddenly realized that his right hand was in pain and was swollen. He indicated that he was unsure as to whether it was an insect bite or an allergic reaction. The employing establishment controverted the claim.

In support of his claim, appellant submitted a note from a physician's assistant indicating that appellant was seen on June 2, 2005 for hand infection. Appellant also submitted medical notes by Dr. William T. O'Connor, a Board-certified internist, dated June 6 and 8, 2005, wherein he indicated that he was treating appellant for hand tendinitis and that appellant was off work until June 10, 2005.

By letter dated June 15, 2005, the Office requested that appellant submit further evidence. He responded to the Office's questions by indicating that he injured himself while delivering a package and that he first sought medical attention on June 2, 2005. Appellant also submitted a medical report dated June 20, 2005, wherein Dr. O'Connor summarized his treatment of appellant as follows:

> "I saw [appellant] on [June 6, 2005] for a painful, swollen right hand. This started on May 31 or June 1[, 2005] while sorting packages at work. He noted painful swelling on the back of his wrist without redness. He was given antibiotics without [any] improvement. Swelling eventually diminished with a decrease in use.
>
> "On exam[ination] he had soft tissue swelling on the dorsum of his right hand proximal to the second and third metacarpal. It was tender to the touch and x-ray exam[ination] revealed no bony pathology. He was treated with anti-inflammatory medications and rest and referred to a hand specialist. He returned to work on [June 13, 2005]."

By decision dated July 19, 2005, the Office denied appellant's claim. The Office found that the evidence established that the incident occurred as described by appellant but that the medical evidence did not establish that the claimed medical condition resulted from the accepted event.[1]

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing 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 and/or specific condition for which compensation is claimed are causally related to the employment injury.[3]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established.

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[1] Subsequent to the issuance of the Office decision, appellant submitted additional evidence. As this evidence was not previously submitted to the Office for consideration prior to its decision of July 19, 2005, it represents new evidence which cannot be considered by the Board in the current appeal. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c); *see Shirley Rhynes*, 55 ECAB ___ (Docket No. 04-1299, issued September 9, 2004).

[2] 5 U.S.C. §§ 8101-8193.

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

There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.[4] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[5] An employee may establish that the employment incident occurred as alleged, but fail to show that his disability and/or condition related to the employment incident.

In order to satisfy the burden of proof, an employee must submit a physician's rationalized medical opinion on the issue of whether the alleged injury was caused by the employment incident.[6] An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.[7] The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.[8] Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated his condition is sufficient to establish causal relationship.[9]

ANALYSIS

As the Office found that the incident occurred on May 31, 2005 at the time, place and in the manner alleged, the remaining issue is whether the alleged injury was caused by the employment incident.

In support of his claim, appellant submitted reports by Dr. O'Connor. In the medical notes dated June 6 and 8, 2005, Dr. O'Connor merely indicated that he was treating appellant for hand tendinitis for which he removed him from work until June 10, 2005. In his report of June 15, 2005, Dr. O'Connor indicated that the problems with appellant's hand started while he was sorting packages at work, that the swelling diminished with decrease in use and that appellant returned to work on June 13, 2005. Dr. O'Connor does not offer an opinion as to the cause of appellant's injury; he merely notes that the symptoms started while appellant was working. However, the mere appearance of a condition during appellant's employment does not raise an inference of causal relationship between the condition and the employment.[10]

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[4] *John J. Carlone*, 41 ECAB 354 (1989); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined).

[5] *Shirley A. Temple*, 48 ECAB 404 (1997).

[6] *Gary L. Fowler*, 45 ECAB 365 (1994).

[7] *John D. Jackson*, 55 ECAB ___ (Docket No. 03-2281, issued April 8, 2004); *William Nimitz*, 30 ECAB 567 (1979).

[8] *Nicolette R. Kelstrom*, 54 ECAB ___ (Docket No. 03-275, issued May 14, 2003).

[9] *Phillip L. Barnes*, 55 ECAB ___ (Docket No. 02-1441, issued March 31, 2004); *Jamel A. White*, 54 ECAB ___ (Docket No. 02-1559, issued December 10, 2002).

[10] *Shirley A. Temple*, *supra* note 5.

The Board notes that the June 2, 2005 note by the physician's assistant does not constitute competent medical evidence since a physician's assistant is not considered a physician under the Act.[11]

As there is no rationalized medical evidence of record establishing that appellant sustained an injury to his hand on May 31, 2005, as alleged, the Board finds that he failed to meet his burden of proof.

CONCLUSION

The Board finds that appellant failed to establish a medical condition causally related to the May 31, 2005 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 19, 2005 is affirmed.

Issued: November 1, 2005
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

[11] *James Robinson, Jr.*, 53 ECAB 417 (2002).