United States Department of Labor
Employees' Compensation Appeals Board

A.S., Appellant	)	
and	)	**Docket No. 06-1244**
	)	**Issued: September 13, 2006**
DEPARTMENT OF VETERANS AFFAIRS, DORN VETERANS ADMINISTRATION HOSPITAL, Columbia, SC, Employer	)	

Appearances:
A.S., pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On May 1, 2006 appellant filed a timely appeal of a November 30, 2005 decision from the Office of Workers' Compensation Programs denying her claim for compensation and a February 21, 2006 decision from the Office denying her request for an oral hearing. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant has established that she sustained an injury in the performance of her duty on August 19, 2005; and (2) whether appellant filed a timely request for an oral hearing.

FACTUAL HISTORY

On October 11, 2005 appellant, a 41-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging that on August 19, 2005 she sustained an injury to two fingers on her right hand after she slipped on a syringe that was lying on the floor. She stated that she attempted to stop herself from falling and hit her right hand on a wall in front of her.

Appellant sought treatment at the employing establishment's health unit on August 19, 2005. The health unit's records reflect that the ring and little fingers on her right hand were painful and swollen. An x-ray taken at the clinic did not show any broken bones or other injury-related abnormalities, only soft tissue swelling was present proximally about the fourth and fifth fingers. The assessment was that appellant sustained a "[right hand] FOOSH [fall on outstretched hand] injury with pain and swelling to her r/ring and little finger." The records were signed by a physician's assistant, Billy Hoe Hansford, and certified by a staff physician, Dr. David E. Koon, Sr. Appellant lost no time from work. She returned to full duty that day following her visit to the health unit.

The case record reveals that appellant underwent occupational therapy on October 18, 2005 on the affected two fingers of her right hand.

By letter dated October 31, 2005, the Office advised appellant that she needed to submit additional evidence with respect to her claim, including a "specific diagnosis for specific injury on August 19, 2005" within 30 days. No further information was provided by appellant.

By decision dated November 30, 2005, the Office denied appellant's claim for compensation. It found that the August 19, 2005 employment incident occurred as alleged, but the medical evidence was not sufficient to establish an injury because there was no "specific diagnosis."

Appellant requested an oral hearing before an Office hearing representative on January 10, 2006. The postmark of the envelope housing the request was January 19, 2006. It was received by the Office on January 24, 2006.

By decision dated February 21, 2006, the request for an oral hearing was denied by the Office. It found that the issue could be equally well addressed through the reconsideration process.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of 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 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.[1] These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.

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

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

actually experienced the employment incident which is alleged to have occurred.[2] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[3] 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]

In addressing the evidence necessary to establish causal relationship in some traumatic injury cases, the Office's procedure manual provides in part:

> "3. *Evidence Needed:* The question of causal relationship is a medical issue which usually requires reasoned medical opinion for resolution. This evidence must be obtained from a physician who has examined or treated the claimant for the condition for which compensation is claimed."[5]
>
> * * *
>
> "d. *When Medical Opinion is Required*:"
>
> * * *
>
> "(2) *In clear-cut traumatic injury claims,* where the fact of injury is established and is clearly competent to cause the condition described (for instance, a worker falls from a scaffold and breaks an arm), no opinion is needed. The physician's affirmative statement is sufficient to accept the claim."[6]

ANALYSIS -- ISSUE 1

There is no dispute that appellant slipped on a syringe that was lying on the floor and used her right hand to stop her fall on August 19, 2005 while in the performance of her duties. The injury to her ring and little right fingers was allegedly caused when her right hand made contact with a wall to prevent her fall. The issue is whether the employment incident caused a personal injury.

Whether the employment incident caused a personal injury generally can be established only by medical evidence. Appellant sought immediate treatment at the employing establishment's health clinic the day of the incident. The clinic's records reflect that she slipped

[2] *Michael E. Smith*, 50 ECAB 313 (1999).

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

[4] *Michael E. Smith*, *supra* note 2.

[5] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3d (July 2000).

[6] *Id.* at Chapter 2.805.3d(2) (June 1995).

and fell. The clinic's physician assistant, Mr. Hansford, noted a "FOOSH" injury, and that appellant's ring and little fingers on her right hand were swollen. The x-ray report revealed soft tissue swelling about the fourth and fifth fingers of the right hand. The report was certified by Dr. Koon.

As noted, the Office's procedure manual provides: "In clear-cut traumatic injury claims, where the fact of injury is established and is clearly competent to cause the condition described (for instance, a worker falls from a scaffold and breaks an arm) no opinion is needed."[7] The Board finds that as appellant's fourth and fifth fingers were visibly swollen immediately following the August 19, 2005 employment incident. Soft tissue swelling was shown on x-ray which was incorporated into the clinic report. Dr. Koon made an affirmative statement that appellant sustained a "[right hand] FOOSH injury with pain and swelling to her r/ring and little finger." This evidence is sufficient to meet appellant's burden of proving that she sustained an injury to the ring and little finger on her right hand, as apparent and described in the report.[8]

CONCLUSION

The Board finds that appellant has established that she sustained an injury to her right hand in the performance of her duty on August 19, 2005.

ORDER

IT IS HEREBY ORDERED THAT the February 21, 2006 decision of the Office of Workers' Compensation Programs be reversed. This case is remanded for further consideration by the Office consistent with this decision.[9]

Issued: September 13, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

[7] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.805.3d(2) (June 1995).

[8] *See Pearlene Morton*, 52 ECAB 493 (2001); *Timothy D. Douglas*, 49 ECAB 558 (1998).

[9] Since the Board finds that appellant has established the fact of injury, it is unnecessary to decide whether the Office properly denied appellant's subsequent request for an oral hearing.