

**United States Department of Labor
Employees' Compensation Appeals Board**

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C.B., Appellant)	
)	
and)	
)	Docket No. 06-1753
)	Issued: February 9, 2007
DEPARTMENT OF HOMELAND SECURITY,)	
FEDERAL EMERGENCY MANAGEMENT)	
AGENCY, Beaumont, TX, Employer)	
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Appearances:
Appellant, 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
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On July 26, 2006 appellant filed a timely appeal from the June 16, 2006 decision of the Office of Workers' Compensation Programs which denied her claim for a traumatic injury. 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 met her burden of proof to establish that she sustained an injury in the performance of duty on March 21, 2006.

FACTUAL HISTORY

On March 21, 2006 appellant, then a 42-year-old housing adviser, filed a traumatic injury claim alleging that on that date she experienced sudden sweating and chest pains with lethargy while in the performance of duty. She stated that the cause was "unknown." Appellant stopped

work on March 21, 2006 and returned on March 27, 2006. On May 2, 2006 the employing establishment controverted the claim.

In a March 22, 2006 report, Dr. Rogelio D. Mendoza, a Board-certified pediatrician, diagnosed acute chest pain with possible acute unstable angina, hiatal hernia with reflux gastroesophagitis, post gastropasty with abdominal wall plastic surgery, degenerative osteoarthritis of both knees, anxiety neurosis with anxiety attacks, stress and depressive disorder, and exogenous obesity. In a March 23, 2006 report, Dr. Mendoza diagnosed stress and angina and checked the box “no” in response to whether he believed appellant had a concurrent or preexisting history of injury, disease or physical impairment. He also checked the box “no” in response to whether appellant’s condition was caused or aggravated by her federal employment activities.

On March 31, 2006 the Office received a note from appellant. She indicated that she wished to clarify “some misinformation.” She stated that she took water and a lunch box of fresh vegetables to work with her on a daily basis which she snacked on throughout the day. Appellant stated that she did not “forego eating or drinking while out on visits to applicants.” She denied that she was on blood pressure medication and added that she had her blood pressure checked on a regular basis.

Appellant submitted numerous emergency room tests and medical reports concerning her treatment for unstable angina on March 21, 2006. The medical reports reveal that she had similar symptoms while she was in college. In an April 5, 2006 emergency room report, Dr. Mendoza noted that appellant came in with a complaint of anxiety. He diagnosed unstable angina. In another report also dated April 5, 2006, Dr. Oxamerso, a physician of unknown specialty, noted that appellant related that she had a sudden onset of a “hot flash,” nausea, chest tightness and shortness of breath. Appellant related that she was at work when she started to feel hot. She indicated that she then went outside but found no relief. Appellant began to feel nausea and had difficulty breathing.

In a letter dated May 16, 2006, the Office requested that appellant submit additional factual and medical evidence in support of her claim.

On May 23, 2006 the Office received copies of a March 22, 2006 chest x-ray, read by Dr. Gregory C. Diaz, a Board-certified diagnostic radiologist. He determined that appellant’s “cardiac silhouette, pulmonary vasculature, lungs and pleural spaces are within normal limits.”

In a June 16, 2006 decision, the Office found the evidence of record insufficient to establish that appellant sustained the employment incident as alleged. The Office further found that there was no medical evidence which provided a diagnosis which could be connected to the claimed events. The Office noted that appellant gave no history of a work injury or documentation to support stress due to her work environment, nor did the medical documentation state that there were any stress factors from her job.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 timely filed within the applicable time limitation period of the Act² and that an injury was sustained in the performance of duty.³ These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁵ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

ANALYSIS

Regarding the first component, appellant has failed to furnish detailed information addressing specific incidents and factors of her employment, which she believes contributed to her condition of sweating and chest pain. She alleged that on March 21, 2006 she experienced sweating and chest pain with lethargy while at work. However, appellant filled in on her claim form that the cause was "unknown." She did not describe any factors of her employment which she believed to have caused her condition. Consequently, appellant has not established that she actually experienced a specific employment incident at a particular time and place because she has not identified any factor of her employment as a cause of her claimed traumatic injury on March 21, 2006.

The Board also notes that medical records provided do not state history of injury which identifies a specific employment factor on March 21, 2006 as the cause of her claimed traumatic injury. In a March 23, 2006 report, Dr. Mendoza specifically answered "no" in response to whether he believed appellant's condition was related to factors of her employment on March 21, 2006.

The Board finds that appellant did not provide a history of a work injury or provide any medical documentation which would support that the claimed March 21, 2006 incident occurred

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *James E. Chadden Sr.*, 40 ECAB 312 (1988).

⁴ *Delores C. Ellyet*, 41 ECAB 992 (1990).

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.*

in the performance of duty. Thus, the Board finds that as she has failed to establish that the injury occurred at the time, place and in the manner alleged, appellant has failed to establish fact of injury. As appellant has not established a compensable employment factor, it is not necessary to address the medical evidence.⁷

CONCLUSION

For the foregoing reasons, appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty on March 21, 2006.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 16, 2006 is affirmed.

Issued: February 9, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

⁷ See *Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).