United States Department of Labor
Employees' Compensation Appeals Board

R.C., Appellant	)	
and	)	**Docket No. 07-651**
	)	**Issued July 6, 2007**
U.S. POSTAL SERVICE, POST OFFICE, Aurora, CO, Employer	)	

Appearances:
John S. Evangelisti, Esq., for the appellant
No appearance, for the Director

Oral Argument June 5, 2007

DECISION AND ORDER

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

JURISDICTION

On January 8, 2007 appellant filed a timely appeal of a decision of the Office of Workers' Compensation Programs dated January 4, 2007 which denied his claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an injury on April 3, 2000 causally related to his federal employment.

FACTUAL HISTORY

This case has been before the Board previously. In a June 25, 2003 decision, the Board found that appellant did not sustain an injury on April 3, 2000 causally related to his federal employment. The Board found that, as the evidence was insufficient to show that he struck an intervening object when he fell that day, the incident was an idiopathic fall and was not compensable.[1]

[1] Docket No. 03-360 (issued June 25, 2003).

On December 16, 2003 appellant, through his attorney, requested reconsideration and submitted duplicates of evidence previously of record including photographs and medical reports. In an April 19, 2004 report, Dr. Lynn Parry, a Board-certified surgeon, noted her review of the medical record. She opined that appellant's quadriplegia was caused by either a hyperflexion or hyperextension injury which was unlikely to have occurred if he fell straight to the ground. Dr. Parry concluded that appellant struck an object when he fell at work.

In a July 2, 2004 report, the employing establishment advised that appellant was found unconscious, face down, on April 3, 2000 and a thorough investigation of the area showed that it was clean and undisturbed and no blood found. The employing establishment again provided a diagram of the area.

By decision dated July 16, 2004, the Office denied modification of its prior decisions, noting that the emergency room records did not document a second laceration and that the photographs merely documented that appellant had a laceration when photographed by his sister in May 2000. The Office further noted that Dr. Parry merely reviewed the medical record and her opinion that appellant struck an intervening object was conjecture on her part.

On August 10 and 26, 2004 appellant filed appeals with the Board. In letters dated September 2, 2004, appellant through his attorney requested to the Board that his appeals be withdrawn and requested reconsideration with the Office.[2]

Counsel submitted new evidence to the Office consisting of a December 11, 2000 magnetic resonance imaging (MRI) scan of the right shoulder which demonstrated an anterior subluxation of the shoulder joint with a degenerative-type anterior labral tear and shoulder joint effusion and synovitis. In a report dated May 25, 2001, Dr. Mark P. Cilo, an attending Board-certified neurologist, opined that the medical record supported that appellant sustained two lacerations when he fell on April 3, 2000 and his quadriplegia was a consequence of this fall. He stated that it was more likely that appellant hit his head on an object when falling rather than simply hitting it on the floor. In a January 13, 2004 report, Dr. Cilo reiterated that appellant had two lacerations; the forehead laceration described in hospital notes and the gash to the back of his head described by his sister. By letter dated September 29, 2005, appellant renewed his reconsideration request.

In a November 18, 2005 decision, the Office denied his reconsideration request.

In a decision dated June 27, 2006, the Board found that the Office properly refused to reopen appellant's case for further consideration of the merits of his claim pursuant to 5 U.S.C. § 8128(a).[3] By order dated July 11, 2006, the Board noted that, as appellant requested oral argument with his appeal to the Board, the June 27, 2006 decision was issued in error and deemed void *ab initio*. The decision was vacated and an oral argument was to be scheduled. On August 7, 2006 appellant, through his attorney, filed a motion to remand the case for the Office

[2] The former was docketed as 04-2016 and the latter 04-2105. In orders dated September 27 and December 2, 2004 respectively, the Board dismissed the appeals.

[3] Docket No. 06-386 (issued June 27, 2006).

to issue a merit decision on his claim for compensation and withdrew his request for an oral argument. By order dated September 7, 2006, the Board granted appellant's request, cancelled oral argument and remanded the case to the Office for a decision on the merits of appellant's claim. In a January 4, 2007 decision, the Office reviewed the merits of appellant's claim and denied modification of its July 16, 2004 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[4] 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 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 is causally related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.[5]

Office regulations, at 20 C.F.R. § 10.5(ee) define a traumatic injury as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift.[6] In order to determine whether an employee 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 is whether the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[7]

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.[8] Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[9] Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the

[4] 5 U.S.C. §§ 8101-8193.

[5] *Gary J. Watling*, 52 ECAB 278 (2001).

[6] 20 C.F.R. § 10.5(ee); *Ellen L. Noble*, 55 ECAB 530 (2004).

[7] *Tracey P. Spillane*, 54 ECAB 608 (2003).

[8] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[9] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[10]

It is well settled 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 Act. Such an injury does not arise out of a risk connected with the employment and is 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. 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 and caused the fall.[11] The Board has recognized that, although a fall is idiopathic, an injury resulting from an idiopathic fall is compensable if "some job circumstance or working condition intervenes in contributing to the incident or injury, for example, the employee falls onto, into or from an instrumentality of the employment" or where, instead of falling directly to the floor on which he or she has been standing, the employee strikes a part of his or her body against a wall, a piece of equipment, furniture or machinery or some like object. An employee has the burden of establishing that he or she struck an object connected with the employment during the course of the idiopathic collapse.[12]

ANALYSIS

Appellant, through his attorney, contended that, because he had two lacerations on his head appellant struck "an instrumentality of employment" such as a piece of furniture when he fell on April 3, 2000. The Board finds that the evidence does not support that conclusion. As noted in the June 25, 2003 Board decision, the facts indicate that appellant was found unconscious by Mr. Le, a coworker, at approximately 7:50 p.m. on April 3, 2000, lying unconscious on the floor on his stomach between his desk and a door. Mr. Le stated that appellant could not be aroused and provided a diagram of the area of the fall. Another coworker, Wayne, advised that he examined the area for bloodstains and found nothing. In a statement dated January 28, 2001, appellant advised that he had had a seizure condition since 1964 and could not remember the circumstances of the April 3, 2000 fall. The nursing notes, Dr. Broker's January 24, 2001 report and Dr. Cilo's July 15, 2002 report were reviewed and found insufficient to establish that appellant sustained a second laceration to his head on April 3, 2000 which would establish that he hit an intervening object when he fell to the floor.[13]

[10] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

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

[12] *Margaret Cravello*, 54 ECAB 498 (2003).

[13] *Supra* note 1.

Subsequent to the June 25, 2003 decision, appellant submitted an ambulance report which stated that he was found face down on the floor with a laceration to his forehead. The emergency room report and critical care admission from the Medical Center of Aurora noted that he had a known seizure disorder and a laceration to his right forehead. In a January 13, 2004 report, Dr. Cilo reiterated his opinion that appellant's second scalp laceration went unnoticed in the emergency room and occurred when he fell at work on April 3, 2000. In an April 19, 2004 report, Dr. Parry noted her review of the medical records which demonstrated that appellant had a laceration to his forehead and a scalp contusion. She opined that appellant struck something when he fell on April 3, 2000 injuring the back of his head with a hyperflexion injury which caused a significant spinal cord injury and then fell forward.

The Board finds that the evidence in the instant case is insufficient to establish that appellant struck any intervening object when he fell.[14] The record supports that appellant sustained a laceration on his forehead when he fell but not a second scalp laceration. The employing establishment investigated the circumstances of the April 3, 2000 fall shortly thereafter and provided evidence to indicate that appellant did not strike an intervening object. The Board finds that the evidence of record does not establish that appellant's fall was caused by intervention of or contribution by any employment-related factors, *i.e.*, he did not strike any object, other than the floor, during the course of his fall at work. The incident, therefore, was an idiopathic fall and not compensable.[15]

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained an employment-related injury on April 3, 2000.

[14] *See Chris Wells*, 52 ECAB 445 (2001).

[15] *See Margaret Cravello*, *supra* note 12.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 4, 2007 be affirmed.

Issued: July 6, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board