

statement. He maintained that on January 1, 2007 he was in the break room with appellant when Kenneth R. Epele, Jr. suddenly blew a loud horn. Mr. Enierga experienced a ringing sensation in his ears.

In an e-mail message dated January 2, 2007, Mr. Epele related that every day appellant came to work and within minutes went to the break room to sleep. He spoke with Ken Dixon, a supervisor, about the matter. Mr. Epele stated:

“I went into the break room with an air horn and gave it a short blast to wake [appellant] and I told him that I wanted to ask him a question. All he did was repeat everything I said to him. He was obviously startled awake and seemed to not know what was going on with his surroundings. I asked him in a polite tone if there was something going on outside of work that made him fall asleep as soon as he got here.”

Appellant responded with profanity and Mr. Epele “felt he was definitely threatening my life....”

In a statement dated January 2, 2007, appellant related that he was speaking with coworkers when Mr. Epele “suddenly used an air horn in the lunch room.” He experienced a mild headache and ringing in his ears due to the noise from the air horn.

In a report dated January 2, 2007, Dr. Duane Cox, a Board-certified internist, related the history of injury as a coworker using an air horn in a confined space on January 1, 2007. Appellant experienced a ringing in his ears and a mild earache. On examination, Dr. Cox listed findings of a bulging, grey, abnormal tympanic membrane but no neurological symptoms or dizziness. He diagnosed hearing loss not otherwise specified and checked “yes” that the findings were consistent with appellant’s statement. Dr. Cox found that he could resume modified duty with no restrictions on standing and walking for two hours.

On January 3, 2007 Dr. Cox diagnosed hearing loss not otherwise specified and found that appellant could resume work with no restrictions.

By letter dated January 16, 2007, the Office requested additional information from appellant, including a detailed medical report addressing the relationship of any diagnosed condition and his employment.

In a report dated January 10, 2007, received by the Office on February 5, 2007, Dr. Cox found that appellant related no further pain or ringing in his ears and that he was “doing fine now.” He diagnosed bilateral tinnitus and discharged him as cured with no disability.

By decision dated February 22, 2007, the Office denied appellant’s claim on the grounds that the medical evidence was insufficient to show that the claimed condition was due to the established work event.

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 filed within the applicable time limitation; that an injury was sustained while 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.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.³

To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether "fact of injury" is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence.⁴ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed.⁵ An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relates to the employment incident.⁶

ANALYSIS

Appellant alleged that he sustained a mild headache and ringing in his ears on January 1, 2007 when a coworker blew an air horn in an enclosed room. The evidence of record establishes that the incident occurred at the time, place and in the manner alleged. Mr. Eppele confirmed that he blew an air horn in the break room. The issue, consequently, is whether the medical evidence establishes that appellant sustained an injury as a result of this incident.

On January 2, 2007 Dr. Cox discussed the history of injury as a coworker blowing an air horn on January 1, 2007 in an enclosed room. He diagnosed hearing loss not otherwise specified and checked "yes" that the findings were consistent with appellant's statement. Dr. Cox found that he could perform modified duty. The Board has held, however, that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form question on whether the claimant's condition was related to the history given is of little probative value.

¹ 5 U.S.C. §§ 8101-8193.

² *Anthony P. Silva*, 55 ECAB 179 (2003).

³ *See Ellen L. Noble*, 55 ECAB 530 (2004).

⁴ *Delphyne L. Glover*, 51 ECAB 146 (1999).

⁵ *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

⁶ *Id.*

Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.⁷

On January 3, 2007 Dr. Cox again diagnosed hearing loss and found that appellant could resume his usual employment. He did not, however, list any findings on examination or address the cause of the diagnosed condition. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.⁸

On January 10, 2007 Dr. Cox diagnosed bilateral tinnitus and found that appellant required no further treatment. Again, as the physician did not address causation, his report is of little probative value.⁹

An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is a causal relationship between his claimed condition and his employment.¹⁰ He must submit a physician's report in which the physician reviews those factors of employment identified by him as causing his condition and, taking these factors into consideration as well as findings upon examination and the medical history, explain how employment factors caused or aggravated any diagnosed condition and present medical rationale in support of his or her opinion.¹¹ Appellant failed to submit such evidence and therefore failed to discharge his burden of proof.

On appeal, appellant requests reimbursement of medical expenses. A claimant has the burden of establishing that the expenditures were incurred for treatment of the effects of an employment-related injury or condition in order to receive reimbursement for medical expenses.¹² As appellant has not established that he sustained an employment injury, he is not entitled to reimbursement for medical treatment.

CONCLUSION

The Board finds that appellant has not established that he sustained an injury on January 1, 2007 in the performance of duty.

⁷ *Deborah L. Beatty*, 54 ECAB 334 (2003) (the checking of a box "yes" in a form report, without additional explanation or rationale, is insufficient to establish causal relationship).

⁸ *Conrad Hightower*, 54 ECAB 796 (2003).

⁹ *Id.*

¹⁰ *Patricia J. Glenn*, 53 ECAB 159 (2001).

¹¹ *Robert Broome*, 55 ECAB 339 (2004).

¹² *See Dona M. Mahurin*, 54 ECAB 309 (2003).

ORDER

IT IS HEREBY ORDERED THAT the February 22, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 8, 2008
Washington, DC

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

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

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