United States Department of Labor
Employees' Compensation Appeals Board

T.S., Appellant	)	
and	)	**Docket No. 08-706**
	)	**Issued: July 3, 2008**
U.S. POSTAL SERVICE, POST OFFICE, Williamston, MI, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On December 31, 2007 appellant filed a timely appeal from the November 27, 2007 merit decision of the Office of Workers' Compensation Programs denying her claim for a traumatic injury. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction to review the merits of this case.

ISSUE

The issue is whether appellant established that she sustained an injury on September 22, 2007, as alleged.

FACTUAL HISTORY

On September 25, 2007 appellant, then a 44-year-old rural route carrier, filed a traumatic injury claim alleging that on September 22, 2007 she was in a motor vehicle accident while in the performance of her federal duties. Appellant noted that, while trying to avoid hitting a car backing out of a driveway, she ran into a tree. She sustained injuries to her left leg and ankle. By letter dated September 28, 2007, the employing establishment controverted the claim. The

postmaster submitted a statement indicating that the motor vehicle accident occurred while appellant was on her way to begin servicing the route. He contended that appellant was not following the official line of travel in the course of her duties. The postmaster stated that the employees were instructed not to use Corwin Road, the scene of the accident, as it was in very poor condition. He indicated that appellant told him that she knew that she was deviating from the official line of travel but had done so to enter her first delivery location from another direction in order to avoid the parking lot at this establishment.

In support of her claim, appellant submitted a note dated September 22, 2007 from Sparrow Family Medical Services with an illegible signature indicating that appellant was excused from work requiring weight bearing until seen by her physician. In an October 2, 2007 note, Dr. Kenneth Price, an osteopath from the same clinic, stated that appellant "needs to be off work from [September 22 through October 14, 2007] for incident reasons."

By letter dated October 5, 2007, the Office asked appellant to submit further information in support of her claim.

By letter to the Office claims examiner dated October 11, 2007, appellant indicated that she would not be claiming "workman's comp" for this accident. She noted that her current health insurance and automobile insurance were taking care of the bills. By letter dated October 17, 2007, the Office noted receipt of the letter and indicated that it granted her request and no further action would be taken by the Office.

On November 19, 2007 appellant filed a new traumatic injury claim for the same incident. By letter of the same date, she informed the Office that she was resubmitting her claim as her insurance company required an approval/denial letter with regard to her claim.

By decision dated November 27, 2007, the Office denied appellant's claim as she had not established fact of injury. It noted that, although appellant had established that the incident occurred as alleged, the medical evidence in the record did not contain a medical diagnosis that could be connected to the incident of September 22, 2007.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim. When the employee claims injury in the performance of duty, she must submit sufficient evidence to establish that she sustained a specific incident at the time, place and in the manner alleged and that such incident caused an injury.[2] The mere fact that a condition manifests itself or worsens during a period of employment does not raise an inference of causal relationship.[3]

[1] 5 U.S.C. §§ 8101-8193.

[2] *See John W. Montoya*, 54 ECAB 308 (2003).

[3] *See Louis T. Blair*, 54 ECAB 348 (2003).

To establish a causal relationship between an employee's condition and an alleged employment injury, appellant must submit rationalized medical opinion from a physician based on a complete and accurate medical and factual background.[4] The physician's opinion must be expressed in terms of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the claimant's employment factors.[5]

ANALYSIS

The Office accepted that the employment incident occurred as alleged. The issue on appeal, therefore, is whether appellant submitted sufficient medical evidence to establish that she sustained an injury as a result of this accepted incident. The Board finds that appellant has not submitted medical evidence sufficient to establish her claim. The only medical evidence in the record consisted of notes from Sparrow Medical Services. On September 22, 2007, a person whose signature is illegible, indicated that appellant was to refrain from weight-bearing activity. As the signature cannot be verified as that of a physician, the report is of no probative value.[6] In a September 27, 2007 note, Dr. Price indicated that appellant needed to be off work "for incident reasons." However, he never mentioned what specific incident necessitated this work absence nor did he give a diagnosis of any medical condition that was caused by the unnamed incident. The Board finds that neither of these notes was sufficient to establish that the accepted incident resulted in a medical condition.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor is her belief that her condition was caused, precipitated or aggravated by her employment sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.[7] As appellant failed to submit such evidence, the Office properly denied her claim.

CONCLUSION

The Board finds that appellant failed to establish that she sustained an injury on September 22, 2007, as alleged.

[4] *See Kathryn E. Demarsh*, 56 ECAB 677 (2005).

[5] *See Charles W. Downey*, 54 ECAB 421 (2003).

[6] A medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a "physician" as defined in 5 U.S.C. § 8101(2). *See Merton J. Sills*, 572, 575 n.3 (1988).

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

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 27, 2007 is affirmed.[8]

Issued: July 3, 2008
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

[8] The Board notes that the record on appeal contains evidence that was submitted for the first time on appeal. The Board lacks jurisdiction to review this evidence for the first time on appeal. 20 C.F.R. § 501.2(c). This, however, does not preclude appellant from submitting such evidence as part of a reconsideration request before the Office.