

In a letter dated April 27, 2007, the Office requested additional factual and medical evidence in support of appellant's claim. Appellant completed a narrative statement stating that she attempted to enter the employing establishment through the left portal door which malfunctioned and she was unable to enter the building. She attempted to exit the portal door and the door closed on her back, neck and right shoulder blade trapping her, she then pulled herself free of the door. A witness, Diane Schur, stated that on April 16, 2007 appellant entered a portal door to her left and that the front door did not open for her. She stated, "[Appellant] turned around anticipating the rear door opening. I saw her jump, as she encountered a problem with the door. I had gone on my way.... I saw there was a problem with the door opening for her and the door somehow clipped her."

In a treatment note dated May 1, 2007, Dr. Hargovind DeWal, a Board-certified orthopedic surgeon, stated that appellant reported neck pain, left shoulder and upper arm pain following an injury at work on April 16, 2007 when she was hit by a door. He found spinous process tenderness in the cervical spine as well as paraspinal tenderness on the right side. Dr. DeWal noted limited range of motion in the cervical spine and examined x-rays. He diagnosed degenerative disc disease, disc displacement without myelopathy and cervical radiculopathy. Dr. DeWal examined appellant on May 22, 2007 and repeated his diagnoses.

By decision dated June 6, 2007, the Office denied appellant's claim finding that the April 16, 2007 employment incident occurred as alleged. However, appellant failed to provide rationalized medical opinion evidence to establish a causal relationship between this incident and her diagnosed cervical conditions.

Appellant, through her attorney, requested reconsideration on October 19, 2007 and submitted a September 13, 2007 report from Dr. DeWal, who stated that on April 16, 2007 appellant was hit by a door at work and developed neck, left shoulder and upper arm pain. Dr. DeWal found tenderness in appellant's cervical spine and limited range of motion. He diagnosed exacerbation of cervical and thoracic degenerative disc disease. He stated, "It [i]s my medical opinion, based on the history given by the patient and her clinical picture, that there is a definite causal relationship between the injuries sustained on April 16, 2007 and her persistent pain and exacerbation of degenerative disc disease."

The Office referred the case record to an Office medical adviser for an opinion on whether the employment incident was sufficient to result in an aggravation of her underlying cervical conditions. The Office medical adviser replied on December 17, 2007, stating that he agreed with Dr. DeWal's diagnosis of exacerbation of cervical and thoracic degenerative disease. He noted that being hit by a door could cause this type of aggravation depending on the force of the blow. The Office medical adviser stated, "Clipped by the door is a relatively trivial momentary trauma usually causing no serious problem. Trapped by the door implies a more direct hit and if a heavy door could cause spinal aggravation."

By decision dated January 3, 2008, the Office denied appellant's claim finding that the witness's statement was not fully consistent with her description of the incident. It noted that Dr. DeWal reported that appellant was hit by a door, rather than being trapped and forced to pull free as appellant described. The Office concluded that appellant's statement was not consistent with the history provided to her physician and that there was inconsistent information to show

that any injury resulted due to the specific trauma. It stated, “The facts as to what actually transpired are not clear and the claimed medical consequences are dependent on a substantial trauma being involved.”

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 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.²

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. 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. An employee has the burden of establishing the occurrence of an injury at the time, place and in the manner alleged, by the preponderance of the reliable, probative and substantial evidence. An injury does not have to be confirmed by eyewitnesses in order to establish the fact that the employee sustained an injury in the performance of duty, but the employee’s statements must be consistent with the surrounding facts and circumstances and her subsequent course of action. An employee has not met her burden of proof where there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim.³

The employee must also submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury. The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment incident. 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 incident identified by the claimant.⁴

¹ 5 U.S.C. §§ 8101-8193.

² *Jussara L. Arcanjo*, 55 ECAB 281, 283 (2004).

³ *Id.*

⁴ *Id.*

ANALYSIS

Appellant alleged that on April 16, 2007 an employing establishment door malfunctioned and closed on her neck, arm and back. In a subsequent narrative statement, she stated that she attempted to exit the portal door and the door closed on her back, neck and right shoulder blade trapping her and she then pulled herself free of the door. A witness, Ms. Schur, reported that on April 16, 2007 appellant entered a portal door to her left and that the front door did not open for her. She stated, “[Appellant] turned around anticipating the rear door opening. I saw her jump, as she encountered a problem with the door. I had gone on my way.... I saw there was a problem with the door opening for her and the door somehow clipped her.” Dr. DeWal, a Board-certified orthopedic surgeon, stated that appellant was struck by a door at work. The Board finds that appellant’s statements, the witness’s statement, the history obtained by the attending physician and appellant’s subsequent course of action are sufficiently consistent to establish that the April 16, 2007 incident occurred at the time, place and in the manner alleged. Appellant was struck by a door at the employing establishment on that date. The question of whether this employment incident was sufficient to result in the diagnosed condition is a medical question. The Office’s denial of appellant’s claim on the basis that the factual evidence was contradictory and insufficient to establish that the employment incident occurred as alleged is not supported by the evidence of record.

Dr. DeWal described the April 16, 2007 employment incident, noting that appellant was hit by a door at work. He diagnosed exacerbation of her underlying cervical and thoracic degenerative disc disease. Dr. DeWal stated, “It [i]s my medical opinion, based on the history given by the patient and her clinical picture, that there is a definite causal relationship between the injuries sustained on April 16, 2007 and her persistent pain and exacerbation of degenerative disc disease.” While he provided an accurate history of the accepted incident, he did not provide sufficient explanation on the causal relationship between the incident and the diagnosed injury. Dr. DeWal did not explain how being struck by a door was sufficient to aggravate appellant’s underlying cervical and thoracic degenerative disc disease. He did not describe how a blow from a door would cause or aggravate appellant’s underlying conditions or the nature and extent of any such aggravation. Due to these deficiencies in the medical evidence, the Board finds that appellant has not met her burden of proof.

CONCLUSION

The Board finds that the April 16, 2007 employment incident occurred as alleged. Appellant did not submit sufficient medical evidence to establish her claim of injury.

ORDER

IT IS HEREBY ORDERED THAT the January 3, 2008 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: July 23, 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