

In a June 2, 2007 discharge summary, Dr. Wade Martin, a Board-certified internist, provided a history of chest tightness and shortness of breath lasting 30 to 60 minutes two days prior while at work. Appellant continued working. Later that day, he experienced chest tightness walking to his house from the driveway. Appellant experienced chest tightness and shortness of breath the following day at work and during the night. Dr. Martin diagnosed a myocardial infarction and hypertension.

In a July 6, 2007 form report, Dr. Ali A. Eshani, a Board-certified internist, diagnosed a myocardial infarction and coronary artery disease. He checked “yes” that the history provided by appellant corresponded with the history on the form of a myocardial infarction while moving supplies at work. Dr. Eshani opined that he could resume work with restrictions on August 10, 2007.

In a June 28, 2007 statement, appellant related that on May 31, 2007 he lifted bags of bonding cement weighing 80 pounds and boxes of metal jacks weighing 35 pounds prior to lifting the drums of adhesive remover. He experienced chest pains while lifting the drums of adhesive remover but continued working that day and the next. Appellant sought treatment at a local emergency room on the adviser of his coworkers. By letter dated July 11, 2007, the employing establishment noted that appellant lifted bags of bonding cement weighing 50 rather than 80 pounds and that he had not complained of chest pains at work.

On July 12, 2007 Dr. Matthew F. McCall, an osteopath for the employing establishment who is Board-certified in preventive medicine, discussed appellant’s history of hypertension, hyperlipidemia, asthma and a cardiac catheterization 10 to 14 years ago. He reviewed appellant’s symptoms of chest pain and shortness of breath beginning at work on May 31, 2007 and stated:

“Careful review of the documentation suggests that [appellant] has had preexisting heart disease. He reported an incident at work May 31, 2007, involving a potentially strenuous activity which he alleges precipitated a diagnosis of [m]yocardial [i]nfarction two days later.

“I am not able to provide a medical opinion as to the exact cause of [appellant’s] recent [m]yocardial [i]nfarction without resorting to speculation.”

By decision dated July 30, 2007, the Office denied appellant’s claim on the grounds that he did not establish fact of injury. The Office determined that the record contained a factual dispute regarding the work factors he experienced on May 31, 2007 and noted that he had not supplied medical records addressing his prior medical history.

On August 27, 2007 appellant requested reconsideration of his claim. He described his work activities on May 31, 2007 in detail and noted that he informed his coworkers on June 2, 2007 that he had felt unwell since lifting the container.¹ By decision dated November 29, 2007,

¹ He submitted a May 31, 2007 witness statement from Freddie Jefferson, a coworker, who related that appellant complained of being very tired after moving bags of cement and had to rest. The next day he complained that he had pulled a muscle.

the Office denied modification of the July 30, 2007 decision. The Office accepted that appellant lifted heavy materials on May 31, 2007 but found that the factual evidence remained incomplete as he had not submitted evidence regarding his prior cardiac problems.

On December 31, 2007 appellant requested reconsideration. He submitted medical records relevant to his 1994 cardiac catheterization. In a November 20, 2007 report, Dr. Ehsani discussed his symptoms of dyspnea and a loss of energy on exertion and his risk factors of obesity and dyslipidemia. He diagnosed chest pain with positive exercise electrocardiogram and recommended a possible catheterization.

In a decision dated February 19, 2008, the Office modified its November 29, 2007 decision to show that it denied appellant's claim because the medical evidence did not show a causally relationship between his work activities on May 31, 2007 and his myocardial infarction.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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.³ 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.⁴

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.⁵ 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.⁶ 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.⁷

² 5 U.S.C. §§ 8101-8193.

³ *Anthony P. Silva*, 55 ECAB 179 (2003).

⁴ *See Ellen L. Noble*, 55 ECAB 530 (2004).

⁵ *Delphyne L. Glover*, 51 ECAB 146 (1999).

⁶ *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

⁷ *Id.*

ANALYSIS

Appellant alleged that he sustained a myocardial infarction due to lifting heavy objects on May 31, 2007 during the course of his federal employment. The Office accepted the occurrence of the claimed work factors on that date. The issue, consequently, is whether the medical evidence establishes that he sustained an injury as a result of this incident. The determination of whether an employment incident caused an injury is generally established by medical evidence.⁸

Appellant has not submitted medical evidence sufficient to establish that his myocardial infarction was causally related to his federal employment. Dr. Martin, in a June 2, 2007 discharge summary, discussed appellant's history of chest tightness and shortness of breath beginning at work two days prior. He diagnosed a myocardial infarction and hypertension. Dr. Martin, however, did not offer any opinion regarding the cause of the myocardial infarction and thus his report is of little probative value.⁹

In a form report dated July 6, 2007, Dr. Eshani diagnosed a myocardial infarction and coronary artery disease and checked "yes" that the history provided by appellant corresponded with the history on the form of a myocardial infarction while moving supplies at work. The physician opined that he could resume modified work on August 10, 2007. 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. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.¹⁰

On July 12, 2007 Dr. McCall reviewed appellant's medical history and discussed his symptoms of shortness of breath and chest pain at work on May 31, 2007. He noted that appellant believed that strenuous activity at work caused his myocardial infarction. Dr. McCall concluded that he was unable to provide an opinion on the cause of the myocardial infarction without speculation. As Dr. McCall declined to address causation, his report is of diminished probative value.¹¹

In a November 20, 2007 report, Dr. Ehsani discussed appellant's complaints of increasing loss of energy and shortness of breath with exertion. He diagnosed chest pain with positive exercise electrocardiogram and recommended a possible catheterization. As Dr. Ehsani did not offer an opinion on causation, his report is insufficient to meet appellant's burden of proof.¹²

⁸ *Lois E. Culver (Clair L. Culver)*, 53 ECAB 412 (2002).

⁹ *Conrad Hightower*, 54 ECAB 796 (2003) (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).

¹⁰ *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).

¹¹ *See Conrad Hightower*, *supra* note 9.

¹² *Id.*

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.¹³ 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.¹⁴ Appellant failed to submit such evidence and therefore failed to discharge his burden of proof.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury on May 31, 2007 in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated February 19, 2008, November 29 and July 30, 2007 are affirmed.

Issued: October 20, 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

¹³ *George H. Clark*, 56 ECAB 162 (2004); *Patricia J. Glenn*, 53 ECAB 159 (2001).

¹⁴ *Robert Broome*, 55 ECAB 339 (2004).