U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KENNETH L. WEINBERG and DEPARTMENT OF COMMERCE, NATIONAL OCEANIC ATMOSPHERIC ADMINISTRATION, Seattle, WA

Docket No. 98-1504; Submitted on the Record;
Issued December 20, 1999

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant established that he sustained an eye injury causally related to factors of his federal employment.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not established that he sustained an eye injury, as alleged.

The facts in this case indicate that on July 6, 1997 appellant, then a 44-year-old research fishery biologist, filed a claim contending that on or around June 10, 1997 he sustained an injury to his right lower eyelid while in the performance of duty on a research ship. Appellant explained that between July 8 and July 10, 1997, the ship's crew was engaged in grinding paint and rust from the ship's surface and during this time a foreign object became embedded in his eyelid. Subsequently, his eye became swollen and produced discharge. He did not stop work. As there was no doctor on the ship, appellant sought medical treatment when the ship reached port on the evening of July 12, 1997. Appellant returned to sea on July 13, 1997. After several days of prescribed antibiotics, appellant's eye condition resolved. In a decision dated September 10, 1997, the Office of Workers' Compensation Programs denied the claim on the grounds that appellant had not established fact of injury. Appellant timely requested a reconsideration and submitted additional evidence in support of his claim. By decision dated February 13, 1998, the Office denied the claim, finding the newly submitted evidence insufficient to warrant modification of the prior decision. The instant appeal follows.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim[2] including the fact that the

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[1] 5 U.S.C. §§ 8101-8193.

[2] *See Daniel R. Hickman*, 34 ECAB 1220 (1983); *see also* 20 C.F.R. § 10.110.

individual is an "employee of the United States" within the meaning of the Act,[3] that the claim was timely filed within the applicable time limitation period of the Act,[4] 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.[5] These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[6]

In order to determine whether an employee actually 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 to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[7] However, an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong and persuasive evidence.[8] In this case, appellant asserted that on June 10, 1997, while at sea in the performance of his duties, his right eye area became swollen and irritated. Appellant's account is supported by a statement from Eric Brown, a witness who observed that appellant's right eye was red and swollen, especially in the area of the lower lid. As there is no evidence to refute appellant's statement and as his statement is consistent with the surrounding facts and circumstances and his subsequent course of action, the Board finds that the evidence of record supports this incident.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence.[9] 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.[10] Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by

[3] *See James A. Lynch*, 32 ECAB 216 (1980); *see also* 5 U.S.C. § 8101(1).

[4] 5 U.S.C. § 8122.

[5] *See Melinda C. Epperly*, 45 ECAB 196 (1993).

[6] *See Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[7] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[8] *See Robert A. Gregory*, 40 ECAB 478 (1989).

[9] 20 C.F.R. § 10.110(a); *see John M. Tornello*, 35 ECAB 234 (1983).

[10] *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams, supra* note 6.

employment factors or incidents is sufficient to establish causal relationship.[11] In the instant case, appellant has submitted no rationalized medical evidence establishing that he sustained a medical condition causally related to the June 10, 1997 employment incident.

The relevant medical evidence consists solely of a June 12, 1997 form report completed by Dr. Paul Copps who noted that appellant presented on that date with inflammation and discharge in his right eye. He diagnosed blepharitis and checked the "yes" box on the form, indicating that the condition was employment related. Dr. Copps prescribed medication and indicated that appellant could resume his regular work.

The Board finds that appellant has not established that the June 10, 1997 employment incident resulted in an injury as the record contains no rationalized medical evidence that relates appellant's condition to the employment incident. While appellant submitted a form report from Dr. Copps who diagnosed blepharitis this report is not sufficient to meet appellant's burden of proof, as it contains no medical rationale explaining the causal relationship, if any, between the June 12, 1997 incident and the diagnosed condition. The Board has held that merely checking a box on an Office form, by a physician, is insufficient to establish causal relationship.[12] By letter dated July 25, 1997, the Office informed appellant of the type of medical evidence needed to establish his claim, but appellant has not submitted such evidence.

The decisions of the Office of Workers' Compensation Programs dated February 13, 1998 and September 10, 1997 are hereby affirmed.

Dated, Washington, D.C.
December 20, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

[11] *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (182).

[12] *See Debra S. King*, 44 ECAB 203 (1992).