## Noteworthy Decision Summary

**Decision:** WCAT-2004-06686-RB **Decision Date:** December 20, 2004
Panel: Cynthia Katramadakis

***Personal Injury - No Definitive Medical Diagnosis - Arising Out of and in the Course of Employment - Section 5(1) of the Workers Compensation Act - Item #13.00 of the Rehabilitation Services and Claims Manual, Volume I***

This decision is noteworthy for its illustration of how a claim is adjudicated as a personal injury under section 5(1) of the *Workers Compensation Act* even when there is no definitive medical diagnosis.

The worker became faint while at work. She related the gradual onset of her symptoms to heat stress/exhaustion brought on by the environmental conditions in her workplace that day. The Workers' Compensation Board, operating as WorkSafeBC (Board), denied her claim for compensation on the basis that the evidence did not establish that her fainting spell was caused by work.

The worker's appeal was denied. The panel found the worker did not suffer a personal injury arising out of and in the course of her employment.

The panel referred to item #13.00 of the *Rehabilitation Services and Claims Manual, Volume I* which defines a personal injury to be any physiological change arising from some cause. She found that the medical evidence on file did not provide a definitive diagnosis. On the one hand, the emergency report stated the worker had nausea, not yet diagnosed. On the other hand, the Board medical advisor offered a diagnosis of syncopy (fainting spell). The panel found that these were symptoms, not diagnoses.

The absence of a definitive diagnosis was not a bar to compensation though a definitive diagnosis could, at times, make it clearer in deciding the issue of causation. In this specific case, without some diagnosis, establishing a causal relationship between the worker's symptoms and her work was very difficult. The causal agent for these symptoms could be one of any number of conditions. While the worker believed that her symptoms were caused by heat exhaustion brought on by her work environment, neither the attending physician at the hospital nor the Board medical advisor offered this as the likely diagnosis. Thus, to find that these symptoms constitute a personal injury, such as heat exhaustion, brought on by some aspect of the employment would be speculative.


Workers' Compensation Appeal Tribunal 150, 4600 Jacombs Road, Richmond, B.C. V6V 3B1
Telephone: (604) 664-7800; 1-800-663-2782; Fax (604) 664-7898

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## Introduction

The worker, a 62-year-old furniture department salesperson, became faint while at work on August 29, 2001 and had to be transported to the local hospital's emergency department by paramedics. The worker related the gradual the onset of symptoms to heat stress/exhaustion brought on by the environmental conditions in the store that day.

In a December 14, 2001 decision letter, an entitlement officer with the Workers' Compensation Board (Board) denied the claim concluding that while the worker's fainting spell occurred at work, the evidence did not establish that it was caused by the work.

The worker appealed this decision to the Workers' Compensation Appeal Tribunal (WCAT) seeking a finding that her symptoms and required medical treatment on August 29, 2001 was work caused. The worker stated on her notice of appeal - part 2 that the work incident lead to her disability from employment until September 4, 2001.

The worker did not request an oral hearing. I have reviewed the claim file along with the submission and witness statements appended to the worker's notice of appeal - part 2. I am satisfied that the appeal can be fairly decided in the manner requested as the issue does not involve significant credibility concerns or require that I make significant factual findings.

The employer did not participate in the appeal although advised of its right to do so.

## Issue(s)

The issue on this appeal is whether the worker's symptoms on August 29, 2001 arose out of and in the course of her employment.

## Jurisdiction

This appeal was filed with the Workers' Compensation Review Board (Review Board). On March 3, 2003, the Review Board and the Appeal Division of the Board were replaced by the WCAT. As this appeal had not been considered by a Review Board panel before that date, it has been decided as a WCAT appeal. (See the *Workers Compensation Amendment Act (No. 2), 2002*, section 38.)

**Relevant Information**

The worker documented the following details on her application for compensation. She had been working "mid store" most of the day. The temperature in that area of the store felt very hot to her. At around 4:00 p.m. she complained to a co-worker that she felt faint. She proceeded to check on the air conditioning and advised that the two units at the front of the store had not been turned on. Approximately one hour later she was called to the furniture department and once there, she had to sit down. The worker reported that something was wrong to the assistant manager who was present. She described being disorientated and dizzy, not being able to talk, and having numbness in her face, hands and legs. She said she then lay down on a bed in the furniture department until the paramedics came and transported her to the local emergency department. The worker provided the names of co-workers who witnessed the incident.

A crew report completed by the paramedics documented similar series of events as noted on the worker's application. In addition though, the crew report indicated that the worker thought she was hyperventilating so she tried breathing into a bag. Her symptoms at the time of examination included increased blood pressure, blurred vision, and dizziness, weakness on standing, nausea, and actual vomiting en route to the hospital. The report also noted the worker's comment that she had her cholesterol and blood sugar checked during her last doctor's visit.

The emergency record report from the local hospital noted that upon attendance the worker was hyperventilating, had elevated blood pressure (189/89), had pale skin color, light-headedness, and vomiting. Under the category "psychiatric complaints" the attending nurse wrote "stress". The worker underwent blood tests which appeared normal.

Given the nature of the worker's symptoms, a Board medical advisor provided the opinion (December 4, 2001 claim log memo) that the most likely diagnosis was syncopy (fainting) and/or panic attack with hyperventilation. According to the Board medical advisor, the August 29, 2001 incident was not work specific as it could have happened anywhere.

After reviewing a list of criteria common to mild heat exhaustion, the entitlement officer contacted the employer on December 5, 2001 (see administrative log entry) enquiring whether the worker was exposed to prolonged standing, hot environment and poor ventilation in her job. The employer advised that the worker's job could require her to stand for extended periods of time. On the day in question, the employer advised that the air conditioning may not have been turned on, however; the store was twenty thousand square feet and had good ventilation. Also, no other employees complained or were affected by the heat. Finally, the employer noted that the worker had a similar episode while at work in September 2001 and on that day the store was not hot. During

that episode, the employer took the worker to a walk in clinic where a doctor there stated that she may have been having an anxiety attack.

The December 11, 2001 decision currently under appeal then followed.

In a March 31, 2003 submission, the worker outlined how her situation correlated to the criteria common with a heat stress condition. The worker advised that her symptoms of general weakness, tiredness, poor muscle control, dizziness, fainting, profuse sweating, nausea and rapid pulse were all signs associated with heat exhaustion. She concluded that these symptoms were caused by her work environment and therefore should be compensable.

The worker also appended statements from two co-workers both of whom acknowledged the worker's symptoms, and one of whom confirmed that the store was extremely hot on August 29, 2001.

**Findings and Reasons**

Section 5(1) of the *Workers Compensation Act* (Act) provides that a claim will be accepted when the evidence establishes that a worker sustained a personal injury arising out of and in the course of employment. Generally, this means that not only must the injury occur at work, but that some aspect of the work activity caused the injury. Thus, the evidence must establish that there was something in the employment that had causative significance in producing the injury. A speculative possibility that this might be so is not sufficient enough to satisfy the provisions set out under this section.

The following point is uncontroverted: the worker suffered symptoms on August 29, 2001 while in the course of her employment. The Board's position is that the worker's symptoms were not work specific and thus not related to employment. According to the Board, the evidence did not establish that there was anything inherent in the work that caused the worker's symptoms. Rather, they were more likely an irrelevant coincidence which merely occurred at the worker's place of employment.

While the Board adjudicated the substantive issue of whether the worker's symptoms arose out of and in the course of her employment, section 5(1) of the Act sets out that the first provision to be met is that of a personal injury. Thus, I must first determine whether the evidence establishes that indeed the worker suffered a personal injury on August 29, 2001.

Policy item #13.00 of the *Rehabilitation Services and Claims Manual, Volume I* defines a personal injury as any physiological change arising from some cause. Policy does not confine personal injuries to those that are obvious by their outward signs, but includes such diagnoses as strains and sprains.

I note that the worker suffered some obvious physiological changes including elevated blood pressure and vomiting. However, while I can accept that these symptoms may indicate some type of underlying problem, their cause is unknown. Medical evidence on file provides no definitive diagnosis. On the one hand, the emergency report stated nausea, not yet diagnosed. On the other hand, the Board medical advisor offered syncopy as a likely diagnosis. I find that these are symptoms, not diagnoses.

However, the absence of a definitive diagnosis is not a bar to compensation though it can, at times, make it clearer in deciding causation. In this specific case without some diagnosis, establishing a causal relationship between the worker's symptoms and her work is very difficult. Without the benefit of some likely diagnosis, the causal agent for these symptoms could be one any number of conditions. While the worker believed that her symptoms were caused by heat exhaustion brought on by her work environment, neither the attending physician at the hospital nor the Board medical advisor offered this as the likely diagnosis. Thus, to find that these symptoms constitute a personal injury, such as heat exhaustion, brought on by some aspect of the employment would be speculative on my part.

Given the above, I find that the evidence establishes that the worker did not suffer a personal injury arising out of and in the course of her employment.

**Conclusion**

I confirm that Board's December 11, 2001 decision for the reasons stated above. I find that the worker did not suffer a personal injury arising out of and in the course of her employment on August 29, 2001 as contemplated under section 5(1) of the Act. I deny the worker's appeal.

Expenses were not requested. Nor, can I find where any were undertaken for mounting this appeal. Therefore, none are awarded.

Cynthia J. Katramadakis
Vice Chair

CJK/jd