

U.S. DEPARTMENT OF LABOR
Office of Workers' Compensation Programs

DECISION OF THE HEARINGS AND REVIEW EXAMINER

In the matter of the claim for compensation under the Title 5, U.S. Code 8101 et. seq. of IRVIN PINCKNEY, Claimant; Employed by United States Department of Interior, Ft. Sumter National Monument, Sullivans Island, South Carolina.
Case File Number 062131714.

Merit consideration of the case file was completed on May 12, 2005 in Washington, DC. Based on this review, the decision of the district office dated March 1, 2005 is reversed for the reasons set forth below.

The issue for determination is whether Mr. Pinckney has established fact of injury in his claim for a work injury of October 6, 2004.

On January 19, 2005 Mr. Pinckney, a maintenance worker, filed a Notice of Traumatic Injury claiming that he injured himself while pulling a cart and helping lift and set stories.

The district office denied Mr. Pinckney's claim on the basis that he failed to establish fact of injury in his claim. Mr. Pinckney disagreed with the district office's decision and requested an oral hearing by the Branch of Hearings and Review. However, on initial review, I do not find the case to be in posture for a hearing.

In the March 1, 2005 Notice of Decision, the district office found there was sufficient evidence on file to support that the claimant sustained an injury as alleged but there was no condition diagnosed by a physician recognized under the FECA. However, this reviewer finds that medical evidence received to file on the same day as the district office's March 1, 2005 decision was sufficient to accept the claim.

The medical evidence of file includes a narrative dated February 24, 2005 written by Dr. Gebhard Steuer which provides a brief history of the injury, a diagnosis of inguinal hernia and the treatment for this injury.

The employees' compensation appeal board has ruled:

A person who claims benefits under the FECA has the burden of establishing the essential elements of his claim, including the fact that he sustained an injury while in the performance of duty. Although compensation awards must be based on reliable, probative and substantial evidence, the evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational and sound; it is not necessary that the evidence be so conclusive as to establish causal connection beyond all possible doubt. Where the relative circumstances strongly suggest a causal relationship and where the medical evidence also supports a causal relationship,

appellant has met his burden of proof. John P. Broll, 42 ECAB ___ (Docket No. 90-2001, issued February 22, 1991).

Finally, this reviewer finds that the medical evidence of file satisfies all five basic elements, and the case should be accepted for inguinal hernia.

The decision of March 1, 2005 is hereby **REVERSED**. The case file is being returned to the district office for acceptance of the claim and payment of appropriate medical and compensation benefits.

DATED: MAY 20 2005
WASHINGTON, DC



Ronnette Keats
Hearings and Review Examiner