

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RAYMOND S. MILES and U.S. POSTAL SERVICE,
POST OFFICE, Fort Worth, TX

*Docket No. 99-412; Submitted on the Record;
Issued April 24, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty.

On June 24, 1998 appellant, then a 55-year-old mailhandler, filed a notice of traumatic injury and claim for continuation of pay/compensation, Form CA-1, alleging that a pinched nerve in his left shoulder was caused by his employment. Appellant alleged he was injured on June 4, 1998 while dumping sacks of mail from one wire cage to another. On the reverse of the form, appellant's supervisor indicated that appellant stopped working June 19, 1998.

In a July 9, 1998 letter, the Office of Workers' Compensation Programs advised appellant that the information submitted in his claim was not sufficient to determine whether appellant was eligible under the Federal Employees' Compensation Act. Further, the Office advised appellant of the additional medical and factual evidence needed to support his claim.

In response to the Office's letter, appellant submitted an emergency room report, two doctor's reports, a magnetic resonance imaging report and notes regarding when appellant could return to work. These reports generally indicated treatment for cervical spondylosis and cervical symptoms.

Included with this evidence was a June 17, 1998 emergency room report signed by a Dr. Stiles¹ indicating that appellant presented with left shoulder pain that began that date. The report noted no history of trauma. Also submitted was a June 19, 1998 treatment note from Dr. William H. Mitchell, a Board-certified orthopedic surgeon, who advised that appellant had been having neck and shoulder pain "for some time." He noted that appellant worked at the employing establishment but that appellant did "not remember any specific injury." Dr. Mitchell diagnosed cervical spondylosis with left cervical nerve root irritation and also noted referring

¹ The physician's full name is not discernible from the record.

appellant to Dr. Lincoln Chin, a Board-certified neurologist, who had previously treated appellant's neck.

Dr. Chin subsequently submitted treatment notes advising that appellant had cervical radiculopathy and advising of his disability status. He released appellant to work without restriction in a July 23, 1998 report. It is noted that on the reverse of the Form CA-1, appellant's supervisor noted that appellant has not returned to work.

By decision dated August 10, 1998, the Office denied appellant's claim. The Office found that, while the evidence of file supported a diagnosis of cervical spondylosis, the evidence did not establish that a condition had been diagnosed in connection with the work factor. Therefore, it was determined that an injury within the meaning of the Act was not demonstrated.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

An employee seeking benefits under the Act² has the burden of establishing that 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.³ These are essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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.⁵

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, based on a complete factual and medical background, supporting such a causal relationship.⁶

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *J. Overfield*, 42 ECAB 718, 721 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Elaine Pendleton*, *supra* note 3.

⁶ *See* 20 C.F.R. § 10.11(a); *John M. Tornello*, 35 ECAB 234 (1983).

In the instant case, there is no dispute that appellant is an employee or that he was dumping sacks of mail from one wire cage to another. However, there is insufficient medical evidence to establish that this action caused or aggravated a medical condition.

In the instant case, medical reports indicate that appellant has cervical spondylosis or radiculopathy. However, appellant has submitted no medical evidence that any cervical or other condition is due to factors of his employment. The June 17, 1998 employing establishment report noted no trauma and Dr. Mitchell's June 19, 1998 report noted that appellant worked at the employing establishment, but that appellant did not recall a specific injury. Dr. Mitchell did not otherwise address the cause of appellant's condition. Other physicians who submitted reports also did not specifically address the cause of appellant's diagnosed condition. On July 9, 1998 the Office advised appellant of the type of medical and factual evidence needed to establish his claim. However, such evidence was not submitted.

As noted above, part of appellant's burden of proof includes the submission of medical evidence establishing that the claimed condition is causally related to employment factors. As appellant has not submitted such evidence, he has not met his burden of proof in establishing his claim.

The decision of the Office of Workers' Compensation Programs dated August 10, 1998 is hereby affirmed.

Dated, Washington, D.C.
April 24, 2000

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member