

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RODNEY B. REID and U.S. POSTAL SERVICE,
POST OFFICE, London, KY

*Docket No. 98-2563; Submitted on the Record;
Issued August 17, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant sustained an injury while in the performance of his duties on November 25, 1997, as alleged.

On or about November 26, 1997 appellant, a distribution clerk, filed a claim asserting that he sustained an injury while in the performance of his duties on November 25, 1997. He stated that he developed pain and spasms in his lower back while reaching into mailbags in the register cage and standing approximately three to four hours.¹ Appellant stopped work that day and sought medical attention at a hospital emergency room.

On December 19, 1997 the Office of Workers' Compensation Programs requested that appellant provide additional information to support his claim, including a narrative medical report from his treating physician providing a rationalized opinion on the causal relationship, if any, between the alleged work incident and the conditions for which he received treatment.

The Office received emergency room records dated November 26, 1997 reporting a history of increased pain in the low back and ankle at work. Appellant was diagnosed with acute exacerbation of chronic back and ankle pain. The Office also received work restriction slips but no narrative medical report providing a rationalized opinion on the element of causal relationship.

In a decision dated February 11, 1998, the Office denied appellant's claim on the grounds that he failed to establish fact of injury. The Office found that appellant experienced the claimed employment factors but that the evidence failed to establish a diagnosed condition in connection therewith.

¹ Appellant sustained low back strains on June 26, 1997 (OWCP file number 06-0680615) and September 23, 1997 (OWCP file number 06-0687584).

On February 18, 1998 appellant requested reconsideration. In support thereof he submitted correspondence and a disability slip.

In a decision dated March 17, 1998, the Office denied modification of its February 11, 1998 decision. The Office found that the evidence submitted did not provide a history of injury, a diagnosis or an opinion, with medical reasoning, as to the relationship between appellant's condition and the November 25, 1997 incident.

On April 15, 1998 appellant again requested reconsideration. He requested an extension of time in which to submit evidence.

In a decision dated April 22, 1998, the Office denied appellant's request for reconsideration. The Office stated that it had no record of newly submitted medical evidence, and as such there was no supporting medical evidence in the file.

On May 20, 1998 appellant requested reconsideration. He submitted an April 9, 1998 report from Dr. Richard A. Carter, a family practitioner, who stated, as follows:

"I am writing this letter on behalf of [appellant]. As you know, [appellant] had an initial back injury in June 1997, he continues to have significant back pain and problems at this time. He has seen Dr. Kiefer who has recommended that he have a myelogram. At this point that has been denied.

"As you know [appellant] was initially injured at work in June 1997. He was apparently seen in the emergency room on November 26, 1997 secondary to what [appellant] reports was a reinjury. He states that he was lifting and moving bags, doing some extra stooping and bending that day at work. [Appellant's] back pain became much worse that day and he was seen in the emergency room. His diagnosis from the emergency room was 'acute exacerbation of chronic back pain.' [Appellant] apparently did attempt to follow-up in our office within the next few days but was unable to get an appointment due to the fact that I was out of the office. Therefore, although I did not see him at that time [sic]. According to his E.R. diagnosis, it does appear that he had a reinjury or an exacerbation of his problem. Regardless, it seems that all of [appellant's] pain is stemming from his original injury of June 1997 or the reinjury of November 1997."

In a decision dated July 21, 1998, the Office reviewed the merits of appellant's claim and denied modification of its February 11, 1998 decision. The Office found that the medical evidence failed to present a diagnosis.

The Board finds that the medical evidence fails to establish that appellant sustained an injury while in the performance of his duties on November 25, 1997, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of proof to establish the essential elements of his claim. When an employee claims that

² 5 U.S.C. §§ 8101-8193.

he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.³

The Office accepts that appellant experienced the specific event, incident or exposure occurring at the time, place and in the manner alleged. The question for determination is whether this implicated employment activity on November 25, 1997 caused an injury.

Causal relationship is a medical issue⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty,⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

The only medical opinion evidence supporting appellant's claim appears in the April 9, 1998 report of Dr. Carter, his family practitioner, who noted appellant's prior back injury of June 1997 but did not relate the history of that injury, the diagnosis given or appellant's medical course. He noted appellant's emergency room visit on November 26, 1997 and described the employment activity to which appellant attributed his injury: Appellant was lifting and moving bags, doing some extra stooping and bending that day at work. Dr. Carter reported that appellant's back pain became much worse that day and that the emergency room diagnosis was "acute exacerbation of chronic back pain." The Office correctly noted that this was not a firm diagnosis of a medical condition but a symptom of an unspecified medical condition. Based on this evidence, Dr. Carter concluded that it did appear that appellant had a reinjury or an exacerbation of his problem, that it seemed all of appellant's pain stemmed from the original injury of June 1997 or the reinjury of November 1997.

Dr. Carter's April 9, 1998 report is of diminished probative value for several reasons. Although appellant's significant history of prior back injury is relevant to any discussion of causal relationship, Dr. Carter only briefly and vaguely noted a prior back injury at work in June 1997. He did not provide a complete discussion of the initial employment injury of June 26,

³ See generally *John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15)-.5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ See *William E. Enright*, 31 ECAB 426, 430 (1980).

1997 or appellant's subsequent employment injury of September 23, 1997, as well as a history of appellant's medical care.⁸

Further, the Office correctly found that Dr. Carter offered no firm diagnosis of appellant's condition. He simply referred to the emergency room notation of an acute exacerbation of chronic back pain. Whether this pain is a symptom of low back strain, spondylosis or some other medical condition remains unclear. Without a specific diagnosis, any discussion of how the implicated employment activity caused or contributed to appellant's condition is speculative.

Dr. Carter's April 9, 1998 report is of diminished probative value and is insufficient to establish the critical element of causal relationship. For this reason, appellant has not met his burden of proof.

The July 21, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
August 17, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

⁸ Medical conclusions based on inaccurate or incomplete histories are of little probative value; *see James A. Wyrick*, 31 ECAB 1805 (1980) (the physician's report was entitled to little probative value because the history was both inaccurate and incomplete); *see generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).