

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES R. HAMMONDS, JR. and U.S. POSTAL SERVICE,
POST OFFICE, Bowling Green, KY

*Docket No. 00-134; Submitted on the Record;
Issued December 5, 2000*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
VALERIE D. EVANS-HARRELL

The issue is whether appellant met his burden of proof in establishing that he sustained an injury in the performance of duty on January 26, 1999, as alleged.

On January 26, 1999 appellant, then a 41-year-old distribution clerk, filed a notice of traumatic injury and claim for pay/compensation (Form CA-1) alleging that his back problem was aggravated on January 26, 1999 due to his job of lifting objects and placing them in their proper place. Appellant went to the emergency room on January 26, 1999 and stopped work the following day. Appellant was advised he could return to light-duty work on February 4, 1999.

In a letter dated March 4, 1999, the Office of Workers' Compensation Programs requested that appellant submit additional medical evidence in support of his claim, including a physician's well-rationalized opinion regarding the causal relationship between his claimed condition and the alleged employment event. In a March 9, 1999 statement, appellant advised that he hurt his back as he was lifting a bulk mailbag off the truck and loading it onto another truck to be put into a BMC. He advised that he did not have any similar disability or symptoms to his back prior to January 26, 1999. In an unsigned January 26, 1999 medical report, Dr. Gary J. Harris, a general surgeon, noted that appellant presented with a low back pain with numbness down the back of the left leg. The medical history reported that appellant has had this problem in the past, the condition arose while he was in the military carrying an entertainment center up the stairs and appellant's back has aggravated him on and off ever since. The medical history further noted that appellant had no direct trauma to the area. Appellant was diagnosed with low back pain with questionable left lower extremity parasthesias. In the February 3, 1999 medical report from Dr. Sam Kesri of Internal Medical Primary Care, the medical history noted that appellant had back pain which started in the military approximately during 1995, the back pain was chronic, and there was a recent exacerbation on January 26, 1999 with no direct trauma. Appellant was diagnosed with a lumbar radiculopathy with no disc prolapse or bulging disc. Appellant was advised that he could return to light duty and to avoid heavy weight lifting.

Follow-up medical reports by Dr. Kesri diagnosed lumbar radiculopathy and left knee arthralgia, but failed to mention a causal relation to the incident of January 26, 1999.

In an April 22, 1999 decision, the Office disallowed appellant's claim for compensation benefits finding that the evidence of record failed to establish that an injury was sustained as alleged. The Office noted that there was no direct trauma sustained on January 26, 1999 and appellant failed to advise of a preexisting back condition which had been recurring on and off since the military accident. The Office thus concluded that there were sufficient inconsistencies to create doubt as to whether appellant injured himself on January 26, 1999.

The Board has duly reviewed the case record in the present appeal and finds that appellant failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty on January 26, 1999, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing 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.² These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

There is no dispute that appellant is a federal employee, and that he timely filed his claim for compensation benefits. There are, however, inconsistencies which cast doubt as to the occurrence of the alleged workplace incidents. Moreover, the medical evidence is insufficient to establish that appellant sustained an injury in the performance of duty on January 26, 1999.⁴ The medical evidence of record denotes inconsistencies as to the history of the alleged January 26, 1999 employment incident and fails to causally relate appellant's diagnosed condition to the incident on January 26, 1999 or provide any medical rationale that appellant's preexisting back condition was aggravated by the incident on January 26, 1999. Both the January 26 and February 3, 1999 medical reports noted, contrary to appellant's description of the alleged injury, that appellant never had any direct trauma to his back, either during the 1995 military incident or the claimed January 26, 1999 incident. They further fail to mention the workplace incident of January 26, 1999 or provide a discussion relating how the alleged employment incident might have aggravated his preexisting back condition. The Office advised appellant, by letter dated March 4, 1999, of the type of medical evidence needed to establish his claim, but he did not provide such evidence. Consequently, appellant has not submitted sufficient medical evidence to

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Elaine Pendleton*, *supra* note 2.

⁴ Part of a claimant's burden of proof includes the submission of rationalized medical evidence based upon a complete factual and medical background showing causal relationship between the claimed injury and employment factors. See *Mary J. Briggs*, 37 ECAB 578 (1986); *Joseph T. Gulla*, 36 ECAB 516 (1985).

meet his burden of proof in establishing that he sustained an injury in the performance of duty on January 26, 1999. Moreover, although appellant advised that he did not have a preexisting back condition, the medical history reflected within the medical reports denotes that appellant has had problems with his back on and off since 1995. Accordingly, there are sufficient inconsistencies in the evidence to create doubt as to whether an injury occurred in the performance of duty on January 26, 1999 as appellant alleged.⁵

The April 22, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
December 5, 2000

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member

⁵ See *Tia L. Love*, 40 ECAB 586 (1989).