U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EDWIN D. MADRIAGA and U.S. POSTAL SERVICE,
POST OFFICE, Rancho Cordova, CA

Docket No. 00-469; Submitted on the Record;
Issued December 15, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, A. PETER KANJORSKI,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has established that he sustained a back injury in the performance of duty on January 20, 1999.

Appellant filed a traumatic injury claim (Form CA-1) on March 10, 1999 alleging that, on January 20, 1999, he injured his back in the performance of duty. By decision dated May 6, 1999, the Office of Workers' Compensation Programs denied the claim on the grounds that the medical evidence was insufficient. In a decision dated July 7, 1999, the Office denied modification of the prior decision.

The Board finds that appellant did not meet his burden of proof to establish an injury in the performance of duty on January 20, 1999.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing that he sustained an injury while in the performance of duty.[2] 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. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[3]

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[1] 5 U.S.C. §§ 8101-8193.

[2] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.110(a).

[3] *See John J. Carlone*, 41 ECAB 354, 357 (1989).

Appellant filed a traumatic injury claim in this case; a traumatic injury is an injury produced by incidents occurring within a single workday or shift.[4] He indicated on his claim form that the injury occurred on January 20, 1999. In several statements appellant has referred to an incident that apparently occurred some time prior to January 20, 1999; he appears to assert that he sustained injury because he was told to push a cart instead of pulling a cart.[5] If appellant is implicating incidents that occurred prior to January 20, 1999, an appropriate claim can be filed. This issue in this case is whether appellant has established fact of injury on January 20, 1999.

Appellant indicated that, on January 20, 1999, he was pulling cages, lifting and distributing mail. There is no evidence disputing that appellant was engaged in these activities on that date and the Office apparently has accepted the incidents as alleged. The remaining issue, however, is whether appellant has submitted sufficient medical evidence establishing a diagnosed injury causally related to the identified employment factors. The Board has held that medical evidence must be in the form of a reasoned opinion by a qualified physician based on a complete and accurate factual and medical history.[6]

The record indicates that appellant received treatment on February 23, 1999 from Dr. Norman Eade, an internist, who noted that he reported low back pain for eight months. Dr. Eade does not provide a history of the January 20, 1999 employment incidents, nor an opinion on causal relationship with a diagnosed back condition. In a report dated March 10, 1999, Dr. Raymond Porter, a family practitioner, diagnosed a compression fracture T12-L1 and low back strain. Dr. Porter does not provide a history or an opinion on causal relationship with the January 20, 1999 employment incidents.

The Board finds that appellant has not submitted probative medical evidence establishing that he sustained a back injury causally related to his federal employment on January 20, 1999. It is, as noted above, appellant's burden of proof and the Board finds that he has not met his burden in this case.

[4] 20 C.F.R. § 10.5(ee). An occupational disease or illness is a condition produced over a period longer than a single workday or work shift. 20 C.F.R § 10.5(q).

[5] The employing establishment indicated that on August 11, 1997 appellant received a notice to improve work practices by pushing containers, not pulling.

[6] *Robert J. Krstyen*, 44 ECAB 227, 229 (1992).

The decisions of the Office of Workers' Compensation Programs dated July 7 and May 6, 1999 are hereby affirmed.

Dated, Washington, DC
December 15, 2000

Michael J. Walsh
Chairman

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member