

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KIMBERLY HERRING and U.S. POSTAL SERVICE,
POST OFFICE, New Orleans, LA

*Docket No. 00-74; Submitted on the Record;
Issued October 19, 2000*

DECISION and ORDER

Before WILLIE T.C. THOMAS, A. PETER KANJORSKI,
VALERIE D. EVANS-HARRELL

The issue is whether appellant established that she sustained an injury in the performance of duty on April 23, 1999.

On April 26, 1999 appellant, a 30-year-old mailhandler, filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that she sustained an injury to her left shoulder while performing her job duties on April 23, 1999. On her Form CA-1 she indicated that the cause of her injury was "unknown." Appellant explained that she worked her regular shift on April 23, 1999 and the following morning she was unable to move her left shoulder.

Appellant was initially treated for her injury on April 26, 1999. She went to the Ochsner Foundation Hospital emergency department and was diagnosed as having sustained an acute cervical strain. The attending physician who completed part B of Form CA-16 (authorization for examination) reported the following history of injury: "Pulls carts-shoulder hurts since yesterday." That same day, appellant was also examined at the Westbank Medical Clinic by Dr. E. Ward Sudderth. At the clinic, appellant completed an accident report wherein she again described the cause of her injury as "unknown." The record also includes handwritten treatment notes, the author of which is unclear, that reveal a history of injury as follows: "painful [left] shoulder three [days] ago [secondary] to unloading a 'mail trailer' at work." The April 26, 1999 treatment notes also include a diagnosis of left shoulder sprain secondary to work-related trauma.

By letter dated May 14, 1999, the Office of Workers' Compensation Programs requested that appellant submit additional factual information. She was further advised that the case would remain open for 30 days in order to submit the requested information. Appellant did not respond to the Office's request for additional information.

In a decision dated June 22, 1999, the Office denied appellant's claim on the basis that she failed to establish that her claimed left shoulder condition was caused by the alleged employment injury on April 23, 1999.

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty on April 23, 1999.

A claimant seeking compensation under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is being claimed is causally related to the employment injury.²

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that the condition was caused, precipitated or aggravated by her employment is sufficient to establish a causal relationship.³ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁴ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁵ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors.⁶

In the instant case, while appellant alleged that she sustained a traumatic injury⁷ to her left shoulder on April 23, 1999, she did not provide any specific details regarding the incident or events that purportedly caused her injury. As previously noted, appellant indicated on her Form CA-1 that the cause of injury was "unknown." And she reiterated this information in an April 26, 1999 accident report she completed at the Westbank Medical Clinic. When the Office later requested that appellant describe in detail exactly how the injury occurred, she failed to provide such information.

The fact that the etiology of a disease or condition is unknown or obscure neither relieves appellant of the burden of establishing a causal relationship by the weight of the medical

¹ 5 U.S.C. §§ 8101-8193.

² See *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996); *Melinda C. Epperly*, 45 ECAB 196 (1993); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Robert G. Morris*, 48 ECAB 238, 239 (1996).

⁴ *Id.*

⁵ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ *Id.*

⁷ A "traumatic injury" is defined as "a condition of the body caused by a specific event or incident, or a series of events or incidents, within a single workday or shift." The condition "must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected." 20 C.F.R. § 10.5(ee).

evidence nor does it shift the burden of proof to the Office to disprove an employment relationship.⁸

The medical evidence accompanying appellant's claim is of little probative value in determining the cause of her injury. Not only does this evidence contradict appellant's original statement that the cause of her injury was "unknown," it also provides conflicting accounts of what purportedly contributed to her injury on April 23, 1999. Whereas the emergency room physician ostensibly attributed appellant's condition to pulling carts, the April 26, 1999 treatment notes from the Westbank Medical Clinic appear to attribute appellant's condition to "unloading a mail trailer." Thus, while the medical evidence indicates that appellant sustained an employment-related injury, the probative value of this evidence is undermined in light of the questionable history of injury reported. The record on appeal is clearly insufficient to establish "fact of injury."⁹ Accordingly, appellant has failed to demonstrate that she sustained an injury in the performance of duty on April 23, 1999.

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

Dated, Washington, DC
October 19, 2000

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member

⁸ *Judith J. Montage*, 48 ECAB 292, 294-95 (1997).

⁹ In order to determine whether an employee sustained a traumatic 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 that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. *Elaine Pendleton*, *supra* note 2. The second component is whether the employment incident caused a personal injury. *John J. Carlone*, 41 ECAB 354 (1989).