

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STAN W. STERGER and U.S. POSTAL SERVICE,
POST OFFICE, Toledo, OH

*Docket No. 99-2112; Submitted on the Record;
Issued September 22, 2000*

DECISION and ORDER

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

The issue is whether appellant has established that he sustained a back injury in the performance of his federal employment.

This case is on appeal to the Board for the second time. In the first appeal,¹ the Board, in a November 22, 1996 decision, found that, while the medical reports appellant submitted stated that his diagnosed conditions of cumulative trauma disorder, myofascial pain syndrome and spinal stenosis were aggravated by his employment, they did not explain whether the aggravation was temporary or permanent and how appellant's underlying condition was affected. The Board remanded the case for the Office to obtain a second opinion evaluation.

On remand, the Office further developed the claim. By decision dated April 17, 1997, the Office denied appellant's claim for compensation benefits on the grounds that the evidence of record failed to establish a causal relationship between the claimed conditions and the employment factors.

Appellant requested an oral hearing before an Office hearing representative, which was held on May 6, 1998.² By decision dated May 4, 1999, the Office hearing representative affirmed the Office's April 17, 1997 decision.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the May 4, 1999 decision of

¹ Docket No. 95-205 (issued November 22, 1996).

² The Board notes that the Office, by decision dated September 17, 1997, initially denied appellant's hearing request as untimely. However, the Office vacated this decision as it had not properly served appellant's attorney with a copy of the decision.

the Office hearing representative is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.³

The decision of the Office of Workers' Compensation Programs dated May 4, 1999 is hereby affirmed.

Dated, Washington, DC
September 22, 2000

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member

³ The March 4, 1997 opinion of the referral physician, Dr. Lawrence M. Spetka, a Board-certified neurological surgeon, that appellant's employment as a letter sorting machine operator did not cause his current condition of myofascial pain syndrome was well rationalized and constituted the weight of the evidence. *See Charles E. Evans*, 48 ECAB 692, 693 (1997); *Marion Thornton*, 46 ECAB 899, 906 (1995).