

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA GREENE and U.S. POSTAL SERVICE,
POST OFFICE, Elmsford, NY

*Docket No. 00-884; Submitted on the Record;
Issued April 17, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant developed cervical radiculopathy due to factors of her federal employment.

Appellant, a 46-year-old mail processor, filed a notice of occupational disease on September 24, 1995 alleging that she developed a hand condition due to continuous filing and gripping in the performance of duty. By decision dated December 26, 1995, the Office of Workers' Compensation Programs denied appellant's claim finding that she failed to establish fact of injury.

Appellant requested an oral hearing on January 19, 1996. By decision dated January 11, 1997, the hearing representative remanded appellant's claim for further development of the medical evidence. By decision dated May 27, 1997, the Office denied appellant's claim finding that she failed to establish a causal relationship between her condition and her federal employment.

Appellant requested an oral hearing and by decision dated May 29, 1998, the hearing representative affirmed the Office's May 27, 1997 decision. Appellant requested reconsideration on May 27, 1999 and by decision dated July 21, 1999, the Office declined to modify its prior decision.

The Board finds that this case is not in posture for decision due to an unresolved conflict of medical opinion evidence.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for

which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.¹

In this case, appellant submitted a report dated November 19, 1996 from Dr. Barbara Beasley, a Board-certified neurologist. She stated that appellant's cervical radiculopathy was precipitated and exacerbated by factors of her employment. Dr. Beasley provided a list of the employment duties which she felt contributed to appellant's condition and stated that all of the mentioned tasks required the use of appellant's neck, neck muscles, bilateral arms and "the cooperation of her lumbar spine."

In accordance with the directions of the hearing representative, the Office referred appellant for a second opinion examination with Dr. Anthony V. Carella, a Board-certified orthopedic surgeon. In his May 12, 1997 report, Dr. Carella noted appellant's work duties and her symptoms and reviewed diagnostic tests. He tested appellant's range of motion in her neck, shoulders, wrists and hands. He found no swelling, effusion erythema, deformity nor tenderness. Dr. Carella stated that his neurological evaluation showed no evidence of weakness or atrophy of any of the major muscle groups of the upper extremities. He found deep tendon reflexes present bilaterally and sensory evaluation within normal limits. Dr. Carella concluded that there was no direct causal relationship between appellant's employment and her diagnosis of cervical spondylosis.

Appellant submitted a May 24, 1999 report from Dr. Christine Sapka, Board-certified in physical medicine and rehabilitation. Dr. Sapka first examined appellant on November 9, 1995 and provided a list of appellant's employment duties. She noted that x-rays demonstrated degenerative disease involving C5-6 disc space. Dr. Sapka stated that a computerized axial tomography (CAT) scan revealed multilevel disc bulges at C3-4 and C4-5 as well as foramina stenosis and osteophyte foramina C6-7.

She reviewed the medical record and stated: "It is my opinion, based on the history as presented by the patient, and the above noted findings, that the injuries were a result of repetitive motions on her job as described above and this caused an exacerbation of her presenting cervical spondylosis." Dr. Sapka concluded: "There may have been a preexisting osteoarthritis, which was aggravated by the repetitive motion of job duties mentioned above."

In this case, the Board finds an unresolved conflict of medical opinion evidence between Drs. Sapka and Beasley, appellant's physicians, who opined that appellant's degenerative cervical condition was aggravated by her employment duties, and Dr. Carella, the Office referral physician, who found no causal relationship between appellant's federal job and her degenerative changes. Section 8123(a) of the Federal Employees' Compensation Act,² provides, "If there is

¹ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

² 5 U.S.C. §§ 8101-8193, 8123(a).

disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.”

As there is an unresolved conflict of medical opinion evidence, on remand, the Office should refer appellant, a statement of accepted facts and a list of specific questions to an appropriate Board-certified physician to determine the causal relationship between her degenerative cervical condition and her employment duties. After this and such other development as the Office deems necessary, the Office should issue an appropriate decision.

The July 21, 1999 decision of the Office of Workers’ Compensation Programs is hereby set aside, and the case is remanded for further development consistent with this opinion.

Dated, Washington, DC
April 17, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member