

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHARON A. ROSS and DEPARTMENT OF AGRICULTURE, FOREST
SERVICE, ROCKY MOUNTAIN RESEARCH STATION, Fort Collins, CO

*Docket No. 01-910; Submitted on the Record;
Issued December 12, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury in the performance of duty on August 30, 1999.

The Board has reviewed the entire case record and finds that appellant has failed to establish that she sustained an injury on August 30, 1999.

An award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship.¹ Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that she sustained an injury in the performance of duty and that her disability was caused or aggravated by her employment.² As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.³ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁴ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.⁵

On September 14, 1999 appellant, then a 54-year-old secretary, filed a traumatic injury claim alleging that on August 30, 1999 she hurt her right knee and lower back when she slipped on water on the floor of the employing establishment coffee shop.

¹ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

² See *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

³ See *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁴ See *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

⁵ *Id.*

In a statement to her supervisor dated September 13, 2000, appellant noted that she filed a compensation claim on September 14, 1999 and that her knee and back had bothered her since the August 1999 incident but that she did not seek medical treatment until July 2000 because she thought her condition would improve.

By decision dated November 20, 2000, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record did not establish that she sustained an injury on August 30, 1999.⁶

In a form report dated October 13, 2000, Dr. William L. Brotherton, Sr., a chiropractor, stated that appellant first consulted him on July 21, 2000 and gave a history of slipping on water in the employing establishment coffee shop on August 30, 1999, twisting her right knee and low back. He diagnosed a subluxation of L3 and T12 of the vertebrae. In answer to the form question on whether the condition was caused or aggravated by appellant's employment, Dr. Brotherton checked the block marked "yes."

However, the Board has held that an opinion on causal relationship which consists only of checking "yes" to a form report question on whether the claimant's disability was related to the history given is of little probative value.⁷ Without any explanation or rationale, such a report is insufficient to establish causal relationship.⁸

In a report dated October 14, 2000, Dr. Brotherton stated that appellant reported having low back and right knee pain since the August 30, 1999 incident when she fell. He stated that examination of her spine revealed subluxations at C1, C5, T12 and the superior/posterior lumbosacral joint and swelling and tenderness to light touch in the area of the L5 nerve root and at the right sacral base. However, Dr. Brotherton did not provide a rationalized medical opinion explaining how appellant's knee and back condition were causally related to a fall at work on August 30, 1999. He merely related appellant's belief that her condition was caused by a fall on that date. Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.

Appellant did not submit rationalized medical evidence establishing that her knee and back condition were causally related to the fall on August 30, 1999 or any other factors of her employment and therefore she has not met her burden of proof.

⁶ The record contains additional evidence that was not before the Office at the time it issued its November 30, 2000 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).

⁷ *See Donald W. Long*, 41 ECAB 142, 146 (1989).

⁸ *Id.*

The November 30, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
December 12, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member