

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DELANO K. LOTA and U.S. POSTAL SERVICE,  
POST OFFICE, San Jose, CA

*Docket No. 00-220; Submitted on the Record;  
Issued January 10, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant has established that he developed disabling angina due to aggravation of acute unstable ischemic myocardial syndrome, causally related to factors of his federal employment.

On June 11, 1997 appellant, then a 51-year-old distribution clerk, filed a traumatic injury claim alleging that on June 2, 1997 he collapsed at work due to an employment-aggravated unstable ischemic myocardial syndrome. He noted that two weeks prior to June 2, 1997 he had chest pain, but continued to work 10 hours a day 6 days a week without taking breaks or lunch, due to the great volume of mail and shortage of workers.

Appellant claimed that on June 1, 1997 around 3:00 a.m. he became soaked with sweat and experienced shortness of breath, dizziness and nausea while at home, but declined to go to the hospital. On June 2, 1997 at approximately 7:15 a.m., he felt the same symptoms while working with machinery at the employing establishment. Appellant fell to the ground, and a coworker called an ambulance.

Appellant submitted a hospital discharge summary dated June 10, 1997, which indicated that he was hospitalized on June 2, 1997 after experiencing approximately 30 minutes of chest pain which "originated after lifting some mail at [appellant's] place of employment." The report noted that appellant "had never had episodes of angina-type chest pain until three weeks prior to this episode." Cardiac catheterization demonstrated an 80 percent occlusion of the left main coronary artery and a right coronary artery occlusion of 60 percent. Triple coronary artery bypass surgery was performed on June 6, 1997. Appellant was discharged on June 10, 1997.

By letter dated September 2, 1997, the Office of Workers' Compensation Programs requested further information.

Appellant submitted a June 21, 1997 hematology report indicating that his total cholesterol and all of his lipid components were within normal limits. An August 6, 1997 postoperative stress echocardiogram using the Bruce exercise protocol was terminated after four and one half minutes due to appellant's complaints of lightheadedness. A postoperative resting electrocardiogram was noted as demonstrating "[s]ymmetric inverted T waves ... consistent with ischemia."

Appellant also submitted overtime records for hours worked between March 29 and May 30, 1997, and a personal statement on so much why overtime work was required. He stated that he had no strenuous activities outside of his job, did not smoke and only occasionally drank beer. Prior to June 2, 1997, he had never been diagnosed with coronary artery disease.

By report dated February 2, 1998, Dr. Stephen J. Brabeck, a Board-certified cardiologist, noted that appellant had been under his care since late May 1997 when he presented with an acute unstable ischemic myocardial syndrome, after sustaining more than 30 minutes of severe chest pressure, which occurred after lifting some mail at his place of employment. Dr. Brabeck stated:

"In retrospect, [appellant] had had recurrent spells of chest discomfort while lifting heavy sacks of mail. Subsequent work-up showed significant multi-vessel disease with a modestly impaired left ventricle. Early coronary artery bypass grafting was indicated. Unfortunately, [appellant] has demonstrated extremely poor functional status since then. An exercise stress test done at the end of August was carried out only to six METS of exercise with development of early fatigability and lightheadedness.

"The actual cause of [appellant's] coronary artery disease would be more related to metabolic factors which include hypercholesterolemia. The expression of the disease, however, was definitely brought out by his employment-related activities, including multiple spells of rather prolonged angina which I feel did result in intermittent small amounts of injury to his myocardium. This has resulted in a generalized decrease in left ventricular function which will be permanent."

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"Because of the above medical history I do not feel it will be medically feasible for him to return to his previous line of employment, which involved moderate lifting, *i.e.*, 25 to 50 pound mail sacks."

By decision dated July 15, 1998, the Office found that the medical evidence was not sufficient to establish a causal relationship between appellant's heart condition and factors of his employment.

By letter dated August 13, 1998, appellant requested an oral hearing, which was held on March 4, 1999. Appellant testified that his regular duties consisted of a lot of lifting. As a distribution clerk, he lifted mailbags from hampers, weighing 45 to 50 pounds and loaded

mailbags from one place to another all day long. Appellant typically spent six hours a day lifting mailbags and two hours distributing tubs which weighed 10 to 20 pounds.

Appellant stated that on June 2, 1997 he began work at 3:50 a.m. and his collapse occurred around 7:30 a.m. He related that at the time he collapsed, he was operating a machine which required that he clear jams and lift trays weighing 15 pounds from a hamper to dump on the machine belt.

Following the hearing, appellant submitted an April 12, 1999 report from Dr. Brabeck who stated:

“I thought I had quite clearly outlined that [appellant] had been lifting heavy sacks of mail when he developed onset of severe chest pressure and presented with an acute unstable coronary syndrome afterwards in the hospital. As I noted, while the actual cause of his coronary artery disease was related to longstanding metabolic factors, including hypercholesterolemia, the expression of that disease, I feel quite definitely, was brought out by his employment-related activities. These activities would include his lifting heavy sacks of mail on multiple occasions. There was no question he was involved in this same activity the day he presented with his unstable coronary syndrome. When taking [appellant’s] history he had had anginal type symptomatology while lifting the mail for several weeks prior. I think it is quite reasonable to assume that he sustained small amounts of myocardial damage during several of these episodes, which led to an ischemic cardiomyopathy. This cardiomyopathy then led to his decreased functional status.

By decision dated May 20, 1999, the hearing representative affirmed the July 15, 1998 decision, finding that the reports from Dr. Brabeck were not sufficient to establish causal relation. The hearing representative found that Dr. Brabeck’s “assumption” regarding myocardial damage was speculative and that the physician was unclear about the disease being “brought out” by appellant’s work activities.

The Board finds that this case is not in posture for decision.

Proceedings under the Federal Employees’ Compensation Act<sup>1</sup> are not adversarial in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.<sup>2</sup>

In this case, the reports of appellant’s treating physician do not contain rationale sufficient to meet appellant’s burden of proving that he sustained a disabling aggravation of underlying coronary artery disease or aggravation of ischemic myocardial damage on June 2, 1997, causally related to his work activities. However, Dr. Brabeck had treated appellant for a

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> *William J. Cantrell*, 34 ECAB 1223 (1983).

myocardial condition prior to the June 2, 1997 incident and opined that appellant's work activities, such as lifting mail sacks, resulted in injury to his myocardium. He later clarified that, while the actual cause of appellant's coronary artery disease was related to metabolic factors, the lifting activities exacerbated the disease and resulted in myocardial damage. Thus, the reports of Dr. Brabeck do constitute substantial, uncontradicted evidence in support of appellant's claim and raise an uncontroverted inference of causal relationship between the June 2, 1997 incapacitating cardiac event and the job duties appellant was performing at the time. Thus, they are sufficient to require further development of the record by the Office. Additionally, the record contains no contrary medical evidence.<sup>3</sup>

The case will be remanded to the Office for the preparation of a statement of accepted facts, including a description of appellant's job duties and physical activities on June 2, 1997. Appellant should be referred to an appropriate cardiac specialist for a rationalized opinion on whether the employment activities of June 2, 1997 caused or aggravated appellant's cardiac condition and his June 2, 1997 collapse. After such development of the evidence as the Office deems necessary, a *de novo* decision shall be issued.

The decision of the Office of Workers' Compensation Programs dated May 20, 1999 is hereby set aside, and the case is remanded for further development in accordance with this decision.

Dated, Washington, DC  
January 10, 2001

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>3</sup> *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).