

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALEMEDIA NEELEY and DEPARTMENT OF VETERANS AFFAIRS,
ALVIN C. YORK MEDICAL CENTER, Murfreesboro, TN

*Docket No. 00-627; Submitted on the Record;
Issued January 11, 2001*

DECISION and ORDER

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

The issue is whether appellant has met her burden of proof in establishing that she had any disability due to her March 12, 1995 employment injury.

The case has been on appeal previously.¹ In a September 19, 1997 decision, the Board found that appellant, a food service worker, had established that she sustained an employment injury at the time, place and in the manner alleged in that she sustained a back injury on March 12, 1995 while lifting dirty trays. The Board, therefore, reversed the decision of the Office of Workers' Compensation Programs denying appellant's claim and returned the case to the Office for a determination of whether she had any disability due to the March 12, 1995 employment injury. In a June 22, 1998 decision, the Office found that the medical evidence of record did not establish that appellant had any disability due to the employment injury. Appellant requested a hearing before an Office hearing representative which was conducted on May 19, 1999. In an August 6, 1999 decision, finalized August 12, 1999, the Office hearing representative found that there was no rationalized medical evidence which related appellant's disability to her March 12, 1995 employment-related back injury. She, therefore, affirmed the Office's June 22, 1998 decision.

The Board finds that appellant has not met her burden of proof in establishing that she had any disability causally related to her March 12, 1995 employment injury.

A person who claims benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his claim. Appellant has the burden of establishing by reliable, probative and substantial evidence that her medical condition was

¹ Docket No. 95-2763 (issued September 19, 1997). The history of the case is contained in the prior decision and is incorporated by reference.

² 5 U.S.C. §§ 8101-8193.

causally related to a specific employment incident or to specific conditions of employment.³ As part of such burden of proof, rationalized medical opinion evidence showing causal relation must be submitted.⁴ The mere fact that a condition manifests itself or worsens during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁵ Such a relationship must be shown by rationalized medical evidence of causal relation based upon a specific and accurate history of employment incidents or conditions which are alleged to have caused or exacerbated a disability.⁶

In a May 24, 1995 report, Dr. Richard T. Hoos, a Board-certified neurologist, stated that he saw appellant on March 17, 1995 with her history of back pain after unloading carts for two days. Dr. Hoos indicated that he had placed appellant on a 10-pound lifting restriction and noted that he had been recommending that appellant have a 20-pound lifting restriction and restrictive use of appellant's hands. He reported that he did not note any new objective findings in his examination of appellant. Dr. Hoos concluded that she had chronic problems, including strains of the shoulder, back and hand which could have been aggravated by repetitive lifting.

In a July 15, 1998 report, Dr. Hoos stated that he had followed appellant since 1992 for nonneurologic problems attributed to tendinitis in the right shoulder, right hip and right hand. He noted that these conditions had resulted in work restrictions. Dr. Hoos commented that he saw appellant on March 17, 1995 who reported that her back had begun to hurt after she unloaded some carts in the prior week. He related that he did not examine appellant in detail but gave her a note documenting her 20-pound lifting restriction. Dr. Hoos indicated that he noted appellant's back pain in a July 31, 1995 office note, relating it to a March 12, 1995 employment injury. He stated that he did not evaluate her further for back strain but continued filling out forms for tendinitis. Dr. Hoos noted that at that time he wrote a statement indicating that appellant strained her back on March 12, 1995. He commented that, in a November 14, 1995 office visit, appellant reported some back pain but the discussion focused mainly on appellant's other problems including preexisting problems with her hands, right hip, knees, stiffness in her fingers, and sinusitis and the need for light duty due to these problems. Dr. Hoos reported that the numerous visits since that time had concerned appellant's hip pain and other aspects of the tendinitis. He stated that this was the limit of his involvement in appellant's back which he admitted was very limited compared to his previous evaluation of appellant's tendinitis. Dr. Hoos concluded that he was not prepared to state that appellant's back pain was disabling.

In a June 9, 1999 report, Dr. Hoos stated that the restrictions placed on appellant prior to March 12, 1995 were for tendinitis of the right shoulder, hip and hand, directly related to her previous work of pushing, pulling, loading and unloading carts. He commented that, despite rest and medication, the symptoms recurred whenever appellant resumed that activity. Dr. Hoos noted that she was able to perform the light duty of washing dishes without recurrence. He

³ *Margaret A. Donnelly*, 15 ECAB 40, 43 (1963).

⁴ *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

⁵ *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

⁶ *Edgar L. Colley*, 34 ECAB 1691, 1696 (1983).

stated that the addition of bending and stooping in the restrictions on March 17, 1995 was made partially because of appellant's report of back strain even though he did not evaluate her in detail for that condition. Dr. Hoos commented that the restrictions were mainly to avoid the cart-related activity that had caused the original problem. He related that his notes showed appellant had an employment-related back strain on March 12, 1995.

The reports of Dr. Hoos showed that appellant sustained a back strain on March 12, 1995. However, he specifically indicated that he could not state that the March 12, 1995 employment injury caused any disability for work. Dr. Hoos noted that appellant was being treated for tendinitis at the time of the employment injury and her work restrictions were primarily due to her tendinitis. Appellant has not submitted any medical evidence which directly finds that her March 12, 1995 employment-related back injury caused disability for work. She, therefore, has not met her burden of proof.

The decision of the Office of Workers' Compensation Programs, dated August 6, 1999, is hereby affirmed.

Dated, Washington, DC
January 11, 2001

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member