

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of TRACY M. BUTLER and U.S. POSTAL SERVICE,  
POST OFFICE, Philadelphia, PA

*Docket No. 00-2308; Submitted on the Record;  
Issued November 19, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an aggravation of her cervical condition causally related to factors of her federal employment.

On October 6, 1999 appellant, then a 36-year-old mail processor, filed a notice of occupational disease alleging that she sustained a cervical herniated disc which "causes pain in both arm[s], *i.e.*, shoulders, elbow, wrist [and] hands." She alleged that the "cold climate of environment on the work floor" contributed to her condition.

In support of her claim, appellant stated that she had noticed a change in temperature on the work floor, which caused her to wear a sweater at all times. She added: "As time went on, it got colder which caused me to ache. I then started to complain about the coldness. I asked my supervisor to be moved to another area which he declined."

In an October 6, 1999 letter, the employing establishment challenged appellant's statement that her supervisor declined to send her to another area. The employing establishment stated that it had always tried to accommodate appellant's medical restrictions and submitted several memorandums referring to her light/limited-duty assignments.

In a letter dated October 8, 1999, Robert D. Duffy, manager, distribution operations of the employing establishment noted that the employing establishment controverted appellant's claim. He noted that the work environment temperature was the same throughout the building and that no one had ever complained about the temperature being too hot or too cold. Mr. Duffy further noted that appellant had several other claims over the years which he thought were merely "unfounded and a pure waste of time."

In an October 19, 1999 duty status report, Dr. Maryanne T. Liberati, Board-certified in internal medicine, indicated a herniated cervical disc. She noted that appellant continued to work under certain restrictions. Appellant also submitted a December 7, 1999 progress report in

which she complained of “[t]ingling [f]ingers” down left shoulder to left fingertips. Dr. Liberati recommended an electromyogram (EMG), neurological evaluation and physical therapy.

By letter dated January 4, 2000, the Office of Workers’ Compensation Programs informed appellant that the evidence was insufficient to determine whether she had sustained an employment-related injury within the meaning of the Federal Employees’ Compensation Act.<sup>1</sup> The Office informed appellant of additional factual and medical evidence necessary to establish her claim.

By decision dated February 23, 2000, the Office denied appellant’s claim on the grounds that none of the medical evidence causally related factors of appellant’s employment to her cervical condition. The Office noted that appellant was advised of the deficiencies in the claim and afforded the opportunity to provide supportive evidence.<sup>2</sup>

The Board finds that appellant failed to meet her burden of proof that she sustained an aggravation of her cervical condition causally related to employment factors.

An award of compensation may not be based on surmise, conjecture and speculation or upon appellant’s belief of causal relationship.<sup>3</sup> A person who claims benefits under the Federal Employees’ Compensation Act<sup>4</sup> has the burden of establishing the essential elements of his or her claim.<sup>5</sup> As part of this burden, a claimant must present rationalized medical opinion evidence based on a complete factual and medical background showing causal relationship.<sup>6</sup> Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>7</sup> must be one of reasonable medical certainty<sup>8</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>9</sup> The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> Appellant continued to submit medical evidence to the Office following the February 23, 2000 decision. The Board’s review is limited to evidence which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).

<sup>3</sup> *William Nimitz, Jr.*, 30 ECAB 567 (1979).

<sup>4</sup> *Supra* note 1.

<sup>5</sup> *Nathaniel Milton*, 37 ECAB 712 (1986).

<sup>6</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>7</sup> *See supra* note 2.

<sup>8</sup> *See Morris Scanlon*, 11 ECAB 384 (1960).

<sup>9</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989); *William E. Enright*, 31 ECAB 426 (1980).

employment.<sup>10</sup> 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.<sup>11</sup>

In this case, appellant alleged that her current condition is a continuation of her October 1988 injury, was aggravated by recurrent lifting and pushing piles of mail as required by the employing establishment and worsened while being exposed to cold air on her work floor. However, Dr. Liberati provided no opinion supported by medical rationale explaining how appellant's condition was aggravated by employment factors. The record contains no report, which provides an opinion, supported by medical rationale, that establishes a causal relationship between the aggravation of appellant's cervical disc condition and factors of her federal employment duties.

The decision of the Office of Workers' Compensation Programs dated February 23, 2000 is hereby affirmed.

Dated, Washington, DC  
November 19, 2001

Michael J. Walsh  
Chairman

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>10</sup> *Edward E. Olson*, 35 ECAB 1099 (1984).

<sup>11</sup> *Bruce E. Martin*, 35 ECAB 1090 (1984).