U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PETER SCUDERI and U.S. POSTAL SERVICE,
POST OFFICE, Middletown, NY

Docket No. 01-1273; Submitted on the Record;
Issued February 1, 2002

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has sustained a back injury causally related to his federal employment.

On March 9, 2000 appellant filed a claim alleging that he sustained a back injury as a result of his employment duties as a clerk. In a narrative statement, he indicated that his job involved bending, lifting, twisting and walking. The record indicates that appellant stopped working on January 7, 2000.

In a decision dated June 27, 2000, the Office of Workers' Compensation Programs denied the claim, finding that appellant had not submitted sufficient factual or medical evidence to establish his claim. By decision dated January 18, 2001, the Office modified the prior decision to reflect that the claimed incidents occurred as alleged, but the claim was again denied on the grounds that the medical evidence was not sufficient to establish an injury causally related to work factors.

The Board finds that appellant has not met his burden of proof to establish an injury causally related to his federal employment.

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.[1]

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[1] *Victor J. Woodhams*, 41 ECAB 345 (1989).

The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and his federal employment.[2] Neither the fact that the condition became manifest during a period of federal employment, nor the belief of appellant that the condition was caused or aggravated by his federal employment, is sufficient to establish causal relation.[3]

Appellant has alleged that he sustained a back injury causally related to work activities such as lifting, bending, twisting and walking. In order to meet his burden of proof, however, he must submit medical evidence on causal relationship between the identified factors and a diagnosed condition. The evidence of record is of little probative value on the issue presented. Appellant submitted medical reports indicating that since August 1999 he had received treatment for back pain, but there is no reasoned medical opinion on causal relationship with the identified work factors. In a report dated March 10, 2000, Dr. C.S. Rametta, an internist, noted that a magnetic resonance imaging scan had shown a very small L4-5 disc protrusion, with diagnostic tests otherwise unremarkable. Dr. Rametta indicated that the diagnosis was unclear, and did not offer an opinion on causal relationship with employment activities. In a Form CA-20 dated March 29, 2000, he diagnosed possible herniated disc and myofascial soft tissue pain. Dr. Rametta checked a box "yes" that the condition was causally related to employment, without providing further explanation. The checking of a box "yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.[4]

The Board notes that the record contains reports from Dr. Walter Tonyes, a chiropractor. Section 8101(2) of the Federal Employees' Compensation Act provides that the term "'physician' … includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist."[5] In an undated report, Dr. Tonyes indicated that x-rays revealed degenerative lumbar changes, with no fracture, dislocation or osseous pathology. In a November 27, 2000 report, he opined that subluxations cannot be exclusively determined by x-rays. Although, Dr. Tonyes stated that appellant had a lumbar subluxation, the diagnosis was not based on x-rays, but on physical examination. The Act clearly requires that the diagnosis of subluxation must be based on x-ray findings. Accordingly, the Board finds that Dr. Tonyes is not considered a physician under the Act and his reports are of no probative medical value.

In the absence of a reasoned medical opinion on causal relationship between a diagnosed condition and the identified employment factors, the Board finds that appellant has not met his burden of proof in this case.

[2] *See Walter D. Morehead*, 31 ECAB 188 (1979).

[3] *Manuel Garcia*, 37 ECAB 767 (1986).

[4] *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).

[5] 5 U.S.C. § 8101(2).

The decision of the Office of Workers' Compensation Programs dated January 18, 2001 is affirmed.

Dated, Washington, DC
February 1, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member