

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ERIC O. LEE and U.S. POSTAL SERVICE,
POST OFFICE, Redford, Mich.

*Docket No. 97-15; Submitted on the Record;
Issued August 3, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof to establish that he sustained a back injury in the performance of duty on March 14, 1996 causally related to his federal employment.

On March 22, 1996 appellant, then a 32-year-old mail processor, filed a claim for compensation alleging that on March 14, 1996 he injured his back while in the performance of duty. The employing establishment stated in the claim form that appellant did not notify it that he had had an injury on March 14 until March 22, 1996.

In a statement received by the Office of Workers' Compensation Programs on April 9, 1996, appellant stated that he injured his back at 5:00 a.m. on March 14, 1996 while unloading letter trays. Later that morning he stated that "my back became worse," and he went to see his doctor. Appellant alleged that he notified his supervisor that he would not be reporting to duty that night but specifically stated that he did not indicate that he had had an employment-related injury.

In a March 14, 1996 medical report, Dr. Nabil Wehbe, an osteopath, noted that appellant would be under his care from that date to March 18, 1996 and that he was unable to return to work until that date.

In a March 17, 1996 medical report, Dr. Ketan Tolia, Board-certified in internal medicine, stated that appellant had left lumbar strain and was released to work effective March 18, 1996.

In a March 21, 1996 medical report, Dr. Bruce W. Terrio, a specialist in internal medicine, stated that appellant was under his care that day and that he should remain off work until March 25, 1996.

In a March 22, 1996 medical report, Dr. Manoranjithan David, appellant's treating physician and Board-certified in emergency medicine, stated that he had examined appellant that day concerning his assertion that he had injured his back on March 14, 1996. Based on a physical examination and x-rays¹ the doctor found that appellant had lumbar strain, L1 neuralgia, right side.

In a March 25, 1996 medical report, Dr. Irene Macko, Board-certified in internal medicine, released appellant to work effective that day.

On April 16, 1996 the Office conducted a telephonic resolution conference between appellant and the employing establishment. Appellant stated that on March 14, 1996 he sustained sharp back pain after he lifted a mail tray. He then stated that he rested after the incident, returned to work, then checked out to return home. He then went to a medical clinic and alleged to have attempted to inform his supervisor that he would not be reporting for duty that evening. Appellant answered the claims examiner's question about the time lag between March 14 and March 22, 1996, the date he submitted his claim, by stating that he did not think the injury was severe and expected that it would resolve in a few days, but that after his treating physician indicated that he needed therapy, he filed the current claim. The claims examiner then stated that appellant's neck problems were "related to the general job duties performed; not the single lower back injury of March 14, 1996; that the Office was only considering the "effects from the March 14, 1996 injury; and that if appellant thought that his overall duties caused "another problem (*i.e.* neck)," he should file a new claim through his employing establishment.

On April 17, 1996 the Office forwarded a summary of the resolution conference to appellant for comment. The Office also advised appellant that he was required to submit medical records since March 14, 1996 and a doctor's report indicating the history of the March 14, 1996 injury and the doctor's opinion regarding diagnosis of that injury.

On April 24, 1996 appellant stated that he had agreed essentially with the report and added no further comments.

On June 3, 1996 the Office notified the employing establishment that it had found that the evidence was "sufficient to establish that the March 14, 1996 injury did occur as alleged, but that medical evidence failed to establish a causal relationship between the employment injury and the claimed condition and that the claim would therefore be denied.

On that day the Office issued a decision denying appellant's claim on the grounds that the medical evidence failed to establish a causal relationship between the March 14, 1996 employment injury and the claimed condition.²

¹ The report did not indicate when the x-rays were taken.

² On July 10, 1996 the Office issued an advisory letter to appellant rejecting his June 10, 1996 request for reconsideration indicating that the information he had submitted subsequent to the June 3, 1996 decision contained neither new nor relevant evidence nor did appellant raise any legal contentions not previously considered.

The Board finds that appellant has not met his burden of proof to establish that he sustained a back injury in the performance of duty on March 14, 1996 causally related to his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his or his claim, including the fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁴

In the instant case, there is no dispute that appellant was an "employee" within the meaning of the Act, or that appellant timely filed his claim for compensation. The Office has also accepted that the March 14, 1996 employment incident occurred as alleged. The Office has, however, denied appellant's claim on the grounds that he has not established that his back condition was causally related to his March 14, 1996 employment incident. The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.⁵ 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,⁶ must be one of reasonable medical certainty,⁷ 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.⁸

In support of his claim, appellant submitted four medical reports which ordered him off work from March 14, 1996, but none of these reports provided a rationalized medical opinion establishing a causal relationship between appellant's March 14, 1996 employment injury and his medical condition. Drs. Wehbe, Terrio and Macko failed to provide a rationalized medical opinion in support of their findings that appellant was disabled as a result of an employment-related injury and therefore these reports have little probative value. Further, Dr. Tolia's medical report, although stating a diagnosis of left lumbar strain, did not establish a causal relationship between this diagnosis and appellant's March 14, 1996 employment-related incident. In addition, although Dr. David evaluated appellant and determined that he had L1 neuralgia right side, he did not provide a rationalized medical opinion establishing a causal relationship between this condition and appellant's March 14, 1996 employment-related incident. To be of probative value to an appellant's claim, the physician must provide rationale

³ 5 U.S.C. § 8107.

⁴ *Mark A. Cacchione*, 46 ECAB 148 (1994).

⁵ *Corlisa L. Sims (Smith)*, 46 ECAB 172 (1994).

⁶ *Jerry A. Miller*, 46 ECAB 243 (1994).

⁷ *Ruby I. Fish*, 46 ECAB 276 (1994).

⁸ *Jerry D. Osterman*, 46 ECAB 500 (1994).

for the opinion rendered.⁹ None of the medical reports address the issue of causal relationship between the claimed medical condition and the March 14, 1996 employment injury or factors of federal employment and, thus, are insufficient to establish causal relationship. Appellant failed to submit such evidence, and, therefore, failed to discharge his burden of proof.¹⁰

The decision of the Office of Workers' Compensation Programs dated June 3, 1996 is hereby affirmed.

Dated, Washington, D.C.
August 3, 1998

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

⁹ *Ruth S. Johnson*, 46 ECAB 237 (1994).

¹⁰ *Ruby I. Fish*, *supra* note 7.