

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DOROTHY M. FULLER and U.S. POSTAL SERVICE,
POST OFFICE, Atlanta, Ga.

*Docket No. 96-2559; Submitted on the Record;
Issued December 15, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty on February 3, 1994.

The Board has given careful consideration to the issues involved, the contentions of the parties on appeal, and the entire case record. The Board finds that the September 1, 1995 decision of the Office of Workers' Compensation Programs' hearing representative, is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.

By letter dated February 8, 1996, counsel for appellant requested reconsideration of the September 1, 1995, Office hearing representative's decision and submitted in support thereof, a medical report from Dr. Robert E. Parham, a Board-certified neurological surgeon dated January 30, 1996. In this report, Dr. Parham stated that on May 27, 1994, appellant presented him with a history of injury indicating that appellant was lifting a tray of mail from a buggy when she injured her neck, shoulder and arm, in the performance of duty on February 3, 1994. Dr. Parham indicated that appellant was admitted to the hospital for treatment, with a three-day epidural, for cervical myelography and contrast computerized tomography (CT) scanning on June 1, 1994. He also indicated that appellant was diagnosed with multi-level cervical spondylosis with referred right arm pain which was aggravated by her work-related injury on February 3, 1994. Dr. Parham then opined that "based upon the history give, the examination made and the final diagnosis of [appellant], the work-related incident on February 3, 1994, which occurred when [appellant] was lifting mail out of a mail buggy, caused or materially adversely affected [appellant's] multi-level cervical spondylosis with referred right arm pain, and which disabled [appellant] and required medical treatment. In short, the work-related incident which occurred on February 3, 1994, caused her aggravated medical condition and the need for the treatment she received."

In a merit decision dated May 21, 1996, the Office denied appellant's application for review on the grounds that the evidence submitted in support of her request for reconsideration was insufficient to warrant modification of the prior decisions. In an accompanying memorandum, the Office found that although Dr. Parham's medical report dated January 30, 1996, related the aggravation of appellant's diagnosed condition of cervical spondylosis to the February 3, 1994 incident, Dr. Parham did not provide medical reasoning for his opinion, nor did he explain how or why appellant was able to wait until May 27, 1994, approximately two months later before seeking medical treatment for her diagnosed condition.¹

Appellant has provided some support for causal relationship. However, there is no reasoned medical opinion attributing appellant's diagnosed cervical spondylosis condition to her accepted incident or exposure of February 3, 1994; therefore, the medical evidence submitted failed to establish fact of injury and is insufficient to meet appellant's burden of proof.² For example, Dr. Parham neither explained how the lifting of mail out of a mail buggy resulted in appellant's diagnosed condition, nor explained in any detail, how or why appellant's diagnosed condition was the result of her accepted incident or exposure of February 3, 1994. The evidence submitted on reconsideration is of limited probative value.³ Accordingly, the Board finds that the Office properly denied modification of the Office hearing representative's September 1, 1995 decision.

The decisions of the Office of Workers' Compensation Programs dated May 21, 1996 and September 1, 1995 are affirmed.

Dated, Washington, D.C.
December 15, 1998

George E. Rivers
Member

David S. Gerson
Member

¹ *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship); *see also George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

² *Id.*

³ *Id.*

A. Peter Kanjorski
Alternate Member