

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DARLENE P. JONES and OFFICE OF PERSONNEL MANAGEMENT,
SYSTEMS DEVELOPMENT DIVISION, Macon, Ga.

*Docket No. 97-577; Submitted on the Record;
Issued December 16, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
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.

The Board has duly reviewed the case on appeal and finds that appellant failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty.

Appellant filed a claim on July 8, 1996 alleging that on June 6, 1996 she developed pain in her neck while lifting and moving computer equipment. The Office of Workers' Compensation Programs denied appellant's claim by decision dated October 28, 1996 finding that she failed to establish fact of injury.¹

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States within the meaning of the Act, that the claim was filed within the applicable time limitation of the Act, 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."² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.³

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another.

¹ Appellant submitted additional new evidence before the Board. As the Office did not consider this evidence in reaching a final decision, the Board may not review it for the first time on appeal. 20 C.F.R. § 501.2(c).

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁴ In some traumatic injury cases this component can be established by an employee's uncontroverted statement on the Form CA-1.⁵ An alleged work incident does not have to be confirmed by eyewitnesses in order to establish that an employee sustained an injury in the performance of duty, but the employee's statement must be consistent with the surrounding facts and circumstances and his subsequent course of action.⁶ A consistent history of the injury as reported on medical reports, to the claimant's supervisor and on the notice of injury can also be evidence of the occurrence of the incident.⁷

In this case, the Office questioned whether the employment incident occurred as alleged. Although appellant delayed a month in filing her claim with the Office, she provided a consistent history of injury on her claim form, when seeking treatment on June 14, 1996 and to her treating physician, Dr. Alexander H.S. Weaver, a Board-certified orthopedic surgeon. The Board finds that appellant has established that the employment incident occurred as alleged.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁸

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, must be one of reasonable medical certainty, 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁹

In support of her claim for cervical pain, appellant submitted a June 14, 1996 treatment record which noted appellant's history of injury and diagnosed cervical pain. The physician did not provide an opinion on the causal relationship between appellant's diagnosed condition and her accepted employment incident and this report is not sufficient to meet appellant's burden of proof.

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Rex A. Lenk*, 35 ECAB 253, 255 (1983).

⁷ *Id.* at 255-56.

⁸ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁹ *James Mack*, 43 ECAB 321 (1991).

Dr. Weaver completed a form report on July 17, 1996 and diagnosed cervical pain. He noted appellant's history of injury as taking a computer off a shelf overhead and something "popped" in her neck on the left side. Dr. Weaver indicated with a checkmark "yes" that appellant's condition was caused or aggravated by the employment activity and added, "by description of how injury occurred" to explain his answer. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.¹⁰ He did not provide sufficient reasoning to support his opinion that appellant's condition was causally related to her employment and his report is not sufficient to meet appellant's burden of proof.

The Office requested additional factual and medical evidence from appellant by letters dated September 26, 1996. There is no additional evidence included in the record prior to the Office's October 28, 1996 decision. As appellant failed to submit the necessary medical opinion evidence, she failed to meet her burden of proof and the Office properly denied her claim.

The decision of the Office of Workers' Compensation Programs dated October 28, 1996 is hereby affirmed.

Dated, Washington, D.C.
December 16, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

¹⁰ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).