

U. S. DEPARTMENT OF LABOR
Employees' Compensation Appeals Board

In the Matter of JANICE L. DAVID and DEPARTMENT OF THE AIR FORCE,
VANCE AIR FORCE BASE, Okla.

*Docket No. 96-452; Submitted on the Record;
Issued January 12, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant's disability beginning June 17, 1994 and her medical treatment beginning June 9, 1994 are causally related to factors of her employment.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that her condition was caused or adversely affected by her employment. As part of this burden she must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation.¹

In the present case, appellant sustained an injury to her low back at home by catching her falling child on or about April 4, 1994. Appellant returned to work on April 22, 1994 performing light duty.

On July 14, 1994 appellant filed a claim attributing the numbness of her back, legs and hand, and the aching in her joints to her duties as a sales store checker. Appellant states that she stopped work on June 17, 1994.²

Appellant's attending physicians indicated that appellant told them that her low back pain was worsened by her employment activities. In a report dated June 22, 1994, Dr. Daniel E. Butler, an orthopedic surgeon, stated, "She finds that the activities that make the pain worse are exercise and standing for a long period of time and bending forwards tends to cause pulling." Appellant's position description lists bending, light to heavy lifting, and prolonged standing as

¹ *Froilan Negron Marrero*, 33 ECAB 796 (1982).

² On the reverse side of appellant's claim form, the employing establishment indicated that appellant stopped work on June 28, 1994. Appellant's earnings and leave statement for the two-week period ending June 25, 1994 indicates she used 39 hours of sick leave during this period.

requirements of her position as a sales store checker. In a report dated August 11, 1994, Dr. Jay Knapik, a Board-certified neurologist, after noting appellant's April 1994 injury at home, stated:

"She was placed on light duty with no lifting greater than 5 pounds with improvement in her symptoms. She notes that her weight restriction was then changed to no lifting greater than 10 pounds and that she became worse while at work. She notes that the pain became so severe that she had to discontinue her work activities in June of this year. The patient states the pain in her low back seems to be exacerbated by prolonged standing."

The employing establishment's physician, Dr. Lynn D. Owen, an osteopath, similarly stated in an August 8, 1994 report:

"After returning to work, she began having gradually increasing discomfort with positional changes and moving of heavy items while working at the Commissary. She tolerated taking anti-inflammatories and muscle relaxers until June 9th at which time she returned to the office for increasing discomfort again. She reported that work seemed to be aggravating her low back pain and it had never really resolved since April. It was becoming an ongoing recurrent problem."

These reports are not sufficient to meet appellant's burden of proof because they consist primarily of the physicians' reiterations of appellant's complaints of pain with working. The only statement on disability in these reports was Dr. Knapik's repetition of appellant's complaint that she hurt too much to work, which, without objective signs of disability, does not constitute a basis for payment of compensation.³ The lack of objective findings was highlighted in a September 27, 1994 report, wherein Dr. Owen stated, "In view of her continuing problems with back pain and an inability to move heavier objects and stand on her feet for extended periods of time, we have recommended to her that she consider retraining for another position. In my opinion with her continuing problems, it would probably be unwise despite no physical signs or verified physical problems that she not return to aggravating activities."

In a report dated February 17, 1995, Dr. Owen indicated, by checking a box on an office form, that appellant's condition was caused or aggravated by an employment activity, adding "Standing, bending, lifting, twisting are considered aggravating factors." However, in this report Dr. Owen diagnosed "low back pain, uncertain etiology" and stated, "Because of the uncertainty of the etiology of the pain and resistance to conservative modalities, it is quite unclear as to the tolerance for work activity." Given Dr. Owen's statements on the etiology of appellant's condition, this report lends little support to appellant's claim. In a report dated May 30, 1995, Dr. Owen stated, appellant's low back pain syndrome was sustained at home and exaggerated by her work activities." While common sense might say that a person with a low back injury in April would experience low back pain in June while working as a sales store checker, more is required to establish entitlement to compensation. Appellant's physicians have not provided a medical report containing a diagnosis of the condition allegedly caused or aggravated by appellant's employment activities after her return to work following her injury at home in April

³ *John L. Clark*, 32 ECAB 1618 (1981).

1994, nor have they provided any explanation of why they believe, if they do, that appellant's disability beginning June 17, 1994 and her medical treatment beginning June 9, 1994 are causally related to factors of her employment rather than to her injury at home. Appellant has not met her burden of proof.

The decisions of the Office of Workers' Compensation Programs dated August 14, 1995 and December 15, 1994 are affirmed.

Dated, Washington, D.C.
January 12, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member