

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RONALD H. JOHNSON and U.S. POSTAL SERVICE,  
NORWOOD STATION, Knoxville, Tenn.

*Docket No. 97-98; Submitted on the Record;  
Issued October 27, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that his hemorrhoid condition was a consequential injury causally related to his January 19, 1994 back injury.

On January 19, 1994 appellant, then a 46-year-old letter carrier, slipped on ice and fell, injuring his neck, hip and lower back. He stopped working on January 20, 1994 and returned to work on March 9, 1994. The Office of Workers' Compensation Programs accepted appellant's claim for low back strain. He received continuation of pay for the period January 21 through March 6, 1994. Appellant stopped work again on March 31, 1994 and returned to light-duty work on May 3, 1994. He subsequently filed a claim for a recurrence of disability. In a July 7, 1994 decision, the Office denied appellant's claim on the grounds that the evidence of record failed to demonstrate a causal relationship between the employment injury and the claimed disability. In a September 15, 1994 decision, the Office denied appellant's request for reconsideration of the July 7, 1994 decision on the grounds that he had neither submitted substantive legal questions nor submitted new and relevant evidence in support of his request. In an October 28, 1994 merit decision, the Office denied appellant's request for modification of the July 7, 1994 decision. On September 26, 1995 the Office vacated its prior decision and paid appellant compensation for the periods for which he claimed compensation for his back injury.<sup>1</sup>

On April 7, 1995 appellant filed a claim for hemorrhoids. He stated that after his back injury on January 19, 1994 he returned to work on light duty. Appellant indicated that he was given pain medication that, as a side effect, caused constipation. He noted that he had to sit eight hours a day in his light-duty position. Appellant stated that his hard stool caused strain and he

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<sup>1</sup> In a June 11, 1996 letter, the Office informed appellant that it proposed to terminate his medical benefits for any condition arising from the January 19, 1994 back injury on the grounds that appellant had no continuing disability as a result of the accepted injury. The record submitted on appeal does not indicate whether the Office has issued a final decision that terminated appellant's medical benefits.

saw blood in the stool. He related that his physician informed him that the required sitting and the pain medication had aggravated hemorrhoids. Appellant indicated that he underwent surgery and was off work for an extended period before returning to light duty. In an October 5, 1995 decision, the Office denied appellant's claim on the grounds that the evidence of record failed to demonstrate a causal relationship between the employment and the claimed condition or disability. In a July 22, 1996 merit decision, the Office denied appellant's request for modification of the October 5, 1995 decision.

The Board finds that the case is not in posture for decision.

In the case of *John R. Knox*,<sup>2</sup> regarding consequential injury, the Board stated:

“It is an accepted principal of workers’ compensation law, and the Board has so recognized, that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee’s own intentional conduct. As is noted by Professor Larson in his treatise: ‘[O]nce the work-connected character of any injury, such as a back injury, has been established, the subsequent progression of that condition remains compensable so long as the worsening is not shown to have been produced by an independent nonindustrial cause.... [S]o long as it is clear that the real operative factor is the progression of the compensable injury, associated with an exertion that in itself would not be unreasonable [under] the circumstances. A different question is presented, of course, when the triggering activity is itself rash in the light of claimant’s knowledge of his condition.’”<sup>3</sup>

In an August 4, 1994 report, Dr. William J. Acuff, a Board-certified surgeon, stated that appellant had hemorrhoids intermittently for a period of time and noted that the condition had become worse. He indicated that appellant had sustained a back injury and had been on restrictive duty which caused him to sit for extended periods. Dr. Acuff stated that appellant had become somewhat constipated and required some strain at his stool. He commented that appellant’s hemorrhoids had been aggravating him since he had to slow down in his work habits because of his chronic back problem. Dr. Acuff noted that appellant was taking Lodine and Darvocet. He diagnosed symptomatic third mucosal prolapse and internal and external hemorrhoids. On August 9, 1994 appellant underwent a laser hemorrhoidectomy and a mucoproctoplasty. Appellant submitted reports on the pain medication he had been given, including hydrocodone, Lodine and Darvocet. The reports for hydrocodone and Lodine indicated that constipation was among the side effects of those medications. The report for Darvocet indicated that black, tarry stools was among the side effects of that medication. In a November 13, 1995 note, Dr. Paul H. Wakefield, a Board-certified family practitioner, stated that the pain medication appellant took for his back injury caused constipation which aggravated

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<sup>2</sup> 42 ECAB 193 (1990).

<sup>3</sup> *Id.* at 196.

his hemorrhoids and led to his hemorrhoidectomy. Appellant therefore established a *prima facie* case that the pain medication given for his back injury caused constipation which aggravated his preexisting hemorrhoids and led to his surgery. This evidence is insufficiently rationalized to establish appellant's claim. However, there is no medical evidence of record contradicting Dr. Wakefield's note. The evidence is sufficient to require further development of the medical record.<sup>4</sup>

On remand, the Office should refer appellant, together with the statement of accepted facts and the case record, to an appropriate physician for an examination. The physician should give his diagnosis of appellant's condition and give his opinion on whether the aggravation of appellant's hemorrhoids and subsequent surgery were a consequence of the pain medication he was taking for his accepted back injury. After further development as it may find necessary the Office should issue a *de novo* decision.

The decision of the Office of Workers' Compensation Programs, dated July 22, 1996, is hereby set aside and the case remanded for further action in accordance with this decision.

Dated, Washington, D.C.  
October 27, 1998

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).