

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DENISE R. VENEGAS and U.S. POSTAL SERVICE,
POST OFFICE, San Francisco, Calif.

*Docket No. 97-559; Submitted on the Record;
Issued September 11, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained an occupational injury in the performance of her federal employment.

In the present case, appellant, a mail carrier, filed an occupational disease claim on June 24, 1996 alleging that carrying too much mail and standing on concrete floors aggravated her back condition. The Office of Workers' Compensation Programs denied appellant's claim by decision dated October 17, 1996 on the grounds that the evidence of record failed to establish a causal relationship between appellant's current back condition and the claimed work activity.

The Board has duly reviewed the case record and finds that appellant has not met her burden of proof in this case.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed, or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.¹ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's 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 upon a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining

¹ *Ruby I. Fish*, 46 ECAB 276 (1994).

the nature of the relationship between the diagnosed condition to the specific employment factors identified by the claimant.²

The Board finds that appellant has not met her burden of proof in this case.

Appellant's treating physician, Dr. Jerome A. Franz a Board-certified internist, in an attending physician's report dated July 2, 1996 diagnosed appellant's back condition as disc disease with sciatica. Dr. Jules Steimnitz, a treating physician Board-certified in preventative medicine, in several reports commencing August 9, 1996 diagnosed appellant's condition as degenerative lumbar disc disease with radiculopathy. The record therefore does include a medical diagnosis of appellant's condition.

Appellant has also explained the factors of employment she believes caused her condition. Appellant has explained that in 1985 she fell on wet paint while working and that she continued to experience left side low back pain since that time. Appellant also alleged that carrying her pouch full of heavy mail, lifting tubs of flats, and standing on a concrete floor three to four hours a day aggravated her back condition. The record substantiates that the Office accepted that appellant sustained an acute back strain in 1985, following which she returned to work in 1988. The record indicates that appellant again stopped work on January 19, 1990 and was allowed to return to work by Dr. Eugene A. Baciocco, a Board-certified orthopedic surgeon, on March 3, 1990. Dr. Baciocco noted at that time that appellant had made a complete and uneventful recovery.

Appellant has not, however, met her burden of proof to establish that her alleged employment factors caused her back condition on or after June 1996. The only medical report of record which addresses the issue of causal relationship is the September 8, 1996 report from Dr. Steimnitz. In this report, Dr. Steimnitz reported that it was his understanding that appellant delivered mail and as a part of this job was required to lift, bend and stoop. Dr. Steimnitz stated that these activities were commonly associated with low back pain. He noted that appellant had an extensive history of back problems and that her history was consistent with a person with degenerative lumbar disc disease and sciatica. Dr. Steimnitz stated that because of appellant's sciatica, he was concerned as to whether appellant had nerve root impingement. Dr. Steimnitz also noted that appellant's examination showed some nonfunctional aspects which would not totally eliminate her symptoms.

The Board has long held that the fact that a condition manifests itself or worsens during a period of employment, or that work activities produce symptoms revelatory of an underlying condition, does not raise an inference of causal relationship between a claimed condition and employment factors.³ While Dr. Steimnitz noted that appellant's work activities produced pain symptoms, this does not raise an inference of causal relationship. Dr. Steimnitz did not provide the rationalized medical opinion necessary to explain why appellant's employment activities caused the diagnosed degenerative disc disease.

² See *William E. Enright*, 31 ECAB 426 (1980).

³ *Jerry D. Osterman*, 46 ECAB 500 (1995).

As appellant has not submitted the necessary medical evidence to establish that the diagnosed condition was causally related to the factors of her employment, appellant has not met her burden of proof in this case.⁴

The decision of the Office of Workers' Compensation Programs dated October 17, 1996 is hereby affirmed.

Dated, Washington, D.C.
September 11, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

⁴ The Board notes that subsequent to the Office's denial of appellant's claim, the Office received additional medical evidence. As this evidence was not before the Office at the time of its final decision, the Board may not review this evidence on appeal. 20 C.F.R. § 501.3(c).