

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GARY E. COLE and U.S. POSTAL SERVICE,
POST OFFICE, Cincinnati, OH

*Docket No. 98-572; Submitted on the Record;
Issued August 6, 1999*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that he sustained a back injury in the performance of duty.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a back injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 timely filed within the applicable time limitation period 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 compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

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

¹ 5 U.S.C. §§ 8101-8193.

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

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. 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.⁴

In the present case, appellant alleged that he sustained an occupational back injury by performing various repetitive activities at work such as stooping, bending, pushing and lifting heavy weights. By decision dated April 29, 1997, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained an occupational back injury in the performance of duty.

Appellant did not submit sufficient medical evidence to establish that he sustained an occupational back injury in the performance of duty. Although the Office requested that appellant submit medical evidence in support of his claim, he did not submit any medical evidence prior to the issuance of the Office's April 29, 1997 decision. Appellant submitted administrative documents indicating that he received medical treatment on January 15 and 17, 1996, but he did not submit any medical reports detailing this or any other medical treatment.⁵ Therefore, the Office properly determined that appellant did not submit rationalized medical evidence relating his claimed medical condition to the accepted employment factors.

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁵ Appellant submitted additional evidence after the Office's April 29, 1997 decision, but the Board cannot consider such evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated April 29, 1997 is affirmed.

Dated, Washington, D.C.
August 6, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member