

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

In the Matter of STEPHEN R. BRINSON and U.S. POSTAL SERVICE,
POST OFFICE, Durham, N.C.

*Docket No. 97-1816; Submitted on the Record;
Issued May 10, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant sustained an injury while in the performance of duty on December 19, 1996, as alleged.

The Board had duly reviewed the record on appeal and finds that this case is not in posture for a determination of whether appellant sustained an injury while in the performance of duty on December 19, 1996. Further development of the medical evidence is warranted on the issue of causal relationship.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.²

The Board finds that the factual evidence of record is sufficient to establish that appellant experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. Appellant, a distribution clerk, explained that on the morning of December 19, 1996 he was throwing off carrier route parcels from a flat. As he was bending at the knees and standing up to drop each parcel in a tub, he noticed a tightness in his back, which got stiffer and stiffer. This is a sufficiently descriptive account of the incident to which appellant attributes his condition, and there is no reason of record to doubt that appellant performed this activity as alleged.

¹ 5 U.S.C. §§ 8101-8193.

² See generally *John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15)-.5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

The employing establishment controverted appellant's claim because he gave notice of the injury on January 2, 1997. In its April 1, 1997 decision denying appellant's claim, the Office of Workers' Compensation Programs also noted the delay in reporting the injury. Asked to address this delay, appellant explained in a February 1997 letter that his back stiffened up slowly, that he took a 10-minute break to relax, that it was still a little stiff and that he thought it might be okay later. Appellant added:

"The reason why I did not report my injury immediately is because when I first injured my back I thought it was just sore or maybe pulled from using a muscle not always used. Also I am in fairly good shape and try hard not to complain of work, and since I would be off for the next two days why complain, I said it [is] only a strained or pulled muscle. I will be okay after these two days off. So I went home unaware of the accident reporting system because this was my first injury and the accident reporting system has never been explained to me. I had no intentions of filing a claim for my injury, but after my condition worsened I sent to Seymour Johnson Air Force Base to be seen. I was examined at the Air Force Base by Dr. Stephen M. Hedt on 23 Dec[ember] 1996. Dr. Hedt diagnosed me as having a strained lower back and put me on light-duty for 2 weeks. When I returned to work on the night of 23 Dec[ember] 1996, I gave my light-duty slip to my supervisor, Stanley Moore. He told me I could not work because he could not use me with the restrictions I had and that he would call me Friday after he shows my sick slip or restrictions to the postal nurse. Stanley Moore never called me to advise me of the postal nurse decision or findings for me to return to work. My condition with my back got worse and I could not stand straight up because my back would stiffen up tight after sitting short periods of time, so I would lay down and it would feel a lot better. But after laying down an hour or so my back would still stiffen and become tight with continuous pain in the lower back. On January 1, 1997 I went to Wayne Memorial Hospital Emergency Room, because my condition had not improved over the week."

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his subsequent course of action. In determining whether a *prima facie* case has been established, such circumstances as late notification of injury, lack of confirmation of injury and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on a claimant's statements. The employee has not met this burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim.³

The factual evidence in this case raises no meaningful inconsistencies and casts no serious doubt on the validity of appellant's claim. Appellant addressed the reasons he delayed reporting the injury -- a delay of only 14 days -- and these reasons are not inconsistent with his claim of having experienced a stiff back on December 19, 1996 while in the performance of duty.

³ *Carmen Dickerson*, 36 ECAB 409 (1985); *Joseph A. Fournier*, 35 ECAB 1175 (1984).

Appellant must nonetheless establish that the employment activity of December 19, 1996 caused an injury. Causal relationship is a medical issue,⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty,⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

In a January 1, 1997 report, Dr. Thomas M. Knutson related a reasonably accurate history of injury and diagnosed radicular back pain with left-sided sciatica symptoms. He noted: "Recent isolated back injury by history." A January 21, 1997 report from Dr. Robert Lacin, a neurosurgeon, also related a reasonably accurate history of what occurred on December 19, 1996. Dr. Lacin reported that appellant had lower back pain with symptoms in the left lower extremity consistent with a radicular irritation, without evidence of radicular dysfunction. A magnetic resonance imaging scan was reported to show significant facet joint disease, more than usual for appellant's age.

Although this evidence lacks a well-reasoned medical opinion explaining how the specific incident that occurred on December 19, 1996 caused or aggravated appellant's diagnosed back condition, the Board finds that the evidence is sufficiently supportive of appellant's claim that further development is warranted.⁸ The Board will set aside the Office's April 1, 1997 decision denying appellant's claim and remand the case for further development on the issue of causal relationship. After such further development as may be necessary, the Office shall issue an appropriate final decision on appellant's claim.

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *See John J. Carlone*, *supra* note 2.

The April 1, 1997 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action consistent with this opinion.

Dated, Washington, D.C.
May 10, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member