

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SCOTT D. ROBERTS and U.S. POSTAL SERVICE,
POST OFFICE, Omaha, Nebr.

*Docket No. 97-2429; Submitted on the Record;
Issued May 7, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant met his burden of proof to establish that he had disability during the period January 10 to 26, 1996 or June 14 to 29, 1996 due to his September 9, 1995 employment injury.

The Board finds that appellant did not meet his burden of proof to establish that he had disability during the period January 10 to 26, 1996 or June 14 to 29, 1996 due to his September 9, 1995 employment injury.

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 The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury 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 compensable 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.³

¹ 5 U.S.C. §§ 8101-8193.

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

³ *See Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a lumbar strain when he picked up mail at work on September 9, 1995. Appellant stopped work for the periods January 10 to 26, 1996 and June 14 to 29, 1996 and claimed that he sustained a recurrence of disability due to his September 9, 1995 employment injury. By decision dated July 25, 1996, the Office denied appellant's claim that he sustained an employment-related recurrence of disability in January 1996 on the grounds that he did not submit sufficient medical evidence in support thereof; by decision dated May 19, 1997, the Office denied appellant's claim that he sustained an employment-related recurrence of disability in June 1996 on the grounds that he did not submit sufficient medical evidence in support thereof.

Appellant did not submit sufficient medical evidence to establish that he had disability during the period January 10 to 26, 1996 or June 14 to 29, 1996 due to his September 9, 1995 employment injury. Appellant submitted medical notes, dated in January 1996, in which Dr. Robert J. Saniuk, an attending Board-certified family practitioner, indicated that he had been off work from January 8 to 29, 1996 due to a lumbar strain. In a report dated April 4, 1996, he stated that diagnostic testing showed a protruding lumbar disc which probably was causing appellant's pain and disability.⁴ In a report dated September 23, 1996, Dr. Saniuk stated, "I feel that [appellant's] back pain all along was most likely related to the September 1995 accident. Initially the back pain seemed as though it was more a lumbar strain and that is why that diagnosis was initially used. As his pain continued and the patient was not responding to treatment, further investigation revealed the disc problem."

The reports of Dr. Saniuk, however, are of limited probative value on the relevant issue of the present case in that they did not contain adequate medical rationale in support of their conclusions on causal relationship.⁵ He did not describe appellant's September 9, 1995 lumbar strain injury in any detail or explain the medical process how a soft-tissue injury could have caused disability many months after its occurrence. The Office did not accept that appellant's degenerative disc disease was related to employment factors and the medical evidence does not otherwise support such a finding. The Board has held that the fact that a condition manifests itself or worsens during a period of employment⁶ or that work activities produce symptoms revelatory of an underlying condition⁷ does not raise an inference of causal relationship between a claimed condition or disability and employment factors.⁸

⁴ A December 16, 1995 magnetic resonance imaging test showed degenerative disc disease at L5-S1 with some disc bulging.

⁵ See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁷ *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

⁸ *Lee R. Newberry*, 34 ECAB 1294, 1299 (1983).

Appellant also submitted a February 5, 1997 report in which Dr. Michael J. Morrison, a Board-certified orthopedic surgeon, to whom Dr. Saniuk referred him, noted that he treated appellant on a single occasion on April 17, 1996 at which time he reported he did not have back pain prior to September 9, 1995. He indicated that appellant was suffering from degenerative disc disease at L5-S1 and stated, “[t]his is based on the patient informing me when his lower back and leg pain and what causative factor brought it on.” Although Dr. Morrison suggested that appellant’s later problems were related to his September 9, 1995 injury, he did not provide a clear opinion to this effect and thus his opinion is of limited probative value on the relevant issue of the present case.⁹ Dr. Morrison’s report does not contain a well-rationalized opinion that appellant had disability for any period on or after January 10, 1996 due to his September 9, 1995 employment injury.¹⁰

The decision of the Office of Workers’ Compensation Programs dated May 17, 1997 is affirmed.

Dated, Washington, D.C.
May 7, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member

⁹ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship).

¹⁰ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (finding that a medical opinion not fortified by medical rationale is of little probative value).