

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LEONARD A. GOOSBY, SR. and U.S. POSTAL SERVICE,
POST OFFICE, Mobile, AL

*Docket No. 00-375; Submitted on the Record;
Issued December 15, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury causally related to his employment.

The Board has duly reviewed the case record and finds that the Office of Workers' Compensation Programs properly determined, in its October 20, 1998 decision, that appellant failed to meet his burden of proof in establishing that his cervical condition was caused by his work duties.

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 filed within the applicable time limitation 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 is causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁴ Second, the

¹ 5 U.S.C. §§ 8101-8193.

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

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

⁴ *Robert J. Krstyen*, 44 ECAB 227, 229 (1992); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁵

Causal relationship is a medical issue and the medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's reasoned opinion on whether there is a causal relationship between the claimant's diagnosed condition and the incidents or factors of employment established as occurring in the employment. 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 established incident or factor of employment.⁶

On December 30, 1997 appellant, then a 40-year-old flat sorter machine clerk, filed an occupational disease claim, stating that his work involved a "lot of lifting, bending, pulling, pushing and twisting" and that he became aware on December 12, 1997 that these activities aggravated a preexisting problem which "now [came] to the forefront." He added that he had a pinched nerve possibly caused by a herniated disc in his neck.

In a progress note dated October 15, 1997, Dr. Charles H. Bryars, a Board-certified family practitioner, stated that appellant's shoulder had been hurting for about a week and he "[d]oes [not] really know of any injury." He referred appellant to Dr. Manuel P. Daugherty, a Board-certified orthopedic surgeon. In a report dated November 20, 1997, he stated that appellant had been working at the employing establishment for almost seven years and had previously injured his left knee when a Coca Cola machine fell on him, resulting in a 10 percent permanent impairment. Dr. Daugherty added that appellant denied any other trauma to his body. He diagnosed possible herniated cervical disc without radiculopathy.

In another progress report dated December 12, 1997, Dr. John E. Semon, a Board-certified orthopedic surgeon, stated that appellant's work activities were aggravating his condition and he should not work for a while.

By letter dated February 2, 1998, the Office requested that appellant submit additional evidence, including a comprehensive medical report from his physician explaining how factors of his federal employment contributed to his cervical condition.

Appellant submitted medical documents showing that he had a history of problems with his knee joints, pelvis and right foot and a fracture in his spine in 1986. He explained that he performed the duties and activities he described in his claim for two hours at a time for the past seven years. Appellant added that he had previously filed an accident report involving a fall from a stool at his flat sorting machine.

⁵ *Id.*

⁶ See *William E. Enright*, 31 ECAB 426 (1980).

By decision dated June 8, 1998, the Office denied appellant's claim, stating that the medical evidence was not sufficient to establish that his condition was caused by an employment factor.

Appellant requested reconsideration and submitted a medical report dated May 15, 1998 from Dr. Daugherty in which he stated that he did not know whether the fall on the job or the automobile accident caused appellant's herniation. He added that any heavy lifting and use of appellant's extremities "could aggravate his present condition and that aggravation could be caused by his employment with the [employing establishment], if such requirements were made." Appellant also submitted medical evidence documenting that he underwent a C6-7 anterior cervical microdiscectomy with fibular allograft arthrodesis on May 15, 1998.

By decision dated October 20, 1998, the Office denied appellant's request for modification.

In this case, the medical evidence does not establish the requisite causal connection between appellant's neck condition and factors of employment. In his May 15, 1998 report, Dr. Daugherty stated that he did not know whether the automobile accident or the fall at work caused appellant's herniated cervical disc. Although he indicated that any heavy lifting and use of his extremities in his employment could aggravate appellant's present condition, his statement is speculative and he did not conclude that appellant's neck condition was aggravated by his work duties. Dr. Daugherty also did not provide a rationalized medical opinion explaining how appellant's neck condition was aggravated. His opinion is therefore not probative.⁷

The only other reference to causation is Dr. Semon's statement in his December 12, 1997 report that appellant's work activities were aggravating his neck condition, but he did not state what these work activities were. His opinion on causation is therefore not probative.⁸ Although the Office advised appellant of the evidence he must submit to establish his claim, appellant did not submit the requisite evidence. He therefore failed to establish his claim.

⁷ See *Alberta S. Williamson*, 47 ECAB 575-74 (1996); *Linda I. Sprague*, 48 ECAB 386, 390 n.12 (1997).

⁸ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

The decision of the Office of Workers' Compensation Programs dated October 20, 1998 is hereby affirmed.

Dated, Washington, DC
December 15, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member