

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LLOYD N. JOHNSON and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Dayton, OH

*Docket No. 02-1111; Submitted on the Record;
Issued September 18, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof in establishing that he sustained an injury on May 16, 2000 causally related to factors of his federal employment.

On May 19, 2000 appellant, then a 58-year-old medical clerk, filed a traumatic injury claim alleging that on May 16, 2000 he attempted to open a file drawer that had jammed and he twisted his right shoulder. Appellant alleged that he tore his rotator cuff during the incident.

In a letter dated March 19, 2001, the Office of Workers' Compensation Programs advised appellant that additional factual and medical information was needed in order to make a determination in his claim. The Office requested a detailed description of how the injury occurred, names and addresses of any witnesses, a description of the immediate effects of the injury and his condition between the date of injury and the date he first received medical care. The Office inquired whether appellant had sustained any other injury either on or off duty between the date of injury and the date it was first reported to his supervisor and physician and whether he had any symptoms or disability similar to that claimed prior to the injury. The Office further requested that appellant submit a detailed, well-rationalized medical report from his physician, which addressed the dates of examination and treatment, the history of injury given by appellant, a catalogue of all preexisting, concurrent and degenerative conditions, along with a description of findings, results of diagnostic tests, a definitive diagnosis and a rationalized medical opinion as to the cause of the diagnosed injury.

In a letter dated April 13, 2001, appellant responded that he had arthritis in his right shoulder and that on May 16, 2000 he threw it out when he jerked on a heavy drawer. He indicated that he had never pulled his shoulder out of joint before and that he had not sustained any other injury to that shoulder between the date of injury and the date it was first reported. Appellant further noted that there were no witnesses to the incident. He submitted no medical evidence at that time.

By decision dated April 19, 2001, the Office denied appellant's claim for compensation on the grounds that the evidence of record did not establish fact of injury.

In a letter dated December 4, 2001, appellant through counsel requested reconsideration and submitted medical evidence. By decision dated March 1, 2002, the Office conducted a merit review of the case. The Office modified the prior decision and found that he had sustained the incident as alleged, however, it denied the claim on the grounds that appellant failed to establish causal relationship.

The Board finds that appellant has failed to meet his burden of proof in establishing that he sustained an injury causally related to factors of his federal employment.

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 and every claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease. As part of this burden, the claimant must present medical evidence establishing causal relationship.³ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁴ Such a relationship must be shown by rationalized medical evidence of causal relation based upon a specific and accurate history of employment incidents or conditions, which are alleged to have caused or exacerbated a disability.⁵

In support of his reconsideration request, appellant submitted three hospital operative reports dated June 28, September 27, 2000 and August 23, 2001, which diagnosis him with right shoulder pain with rotator cuff tear and arthritis. In the June 28, 2000 report, Dr. Lynn Alvin Crosby, a Board-certified orthopedic surgeon, stated that appellant presented with right shoulder symptoms "after having an injury several months ago" and underwent a diagnostic shoulder arthroscopy and repair of the rotator cuff tear on June 28, 2000. In the September 27, 2000 report, Dr. Crosby indicated that he returned for a right shoulder arthroscopy and arthroscopic Bankart repair due to recurrent instability of the right shoulder and failed Bankart repair. Dr. Crosby noted that appellant had a prior Bankart repair of his right shoulder in 1993. In the August 23 2001 report, Dr. Crosby noted that appellant presented again with right shoulder pain, which appellant related began in March 2000, when trying to open a stuck

¹ 5 U.S.C. §§ 8101-8193.

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

³ *Joseph T. Gulla*, 36 ECAB 516 (1985).

⁴ *Edward E. Olson*, 35 ECAB 1099, 1103 (1984); *Juanita Rogers*, 34 ECAB 544, 546 (1983).

⁵ *Edgar L. Colley*, 34 ECAB 1691, 1696 (1983).

file cabinet drawer. Dr. Crosby diagnosed arthritis and instability of the right shoulder and noted that appellant returned for a total shoulder hemiarthroplasty.

In further support of his request for reconsideration, appellant argued in an October 31, 2001 letter, that Dr. Crosby wrote “direct result injury proof” on the November 22, 2000 operative report. He resubmitted the operative reports including the November 22, 2000 report, by Dr. Crosby with the referenced handwritten notation.

The Board finds that the medical evidence submitted by appellant does not sufficiently relate appellant’s diagnosed shoulder condition to the employment incident. There is no evidence of record, which confirms appellant’s injury of his right shoulder pain and rotator cuff tear until June 28, 2000, when he underwent surgery almost two months after the claimed incident. Further, the operative notes of record are vague and inconsistent as to the cause of appellant’s condition. The June 28, 2000 report outlined that appellant complained of right shoulder pain after having an injury several months ago. The November 22, 2000 report submitted on reconsideration contained a handwritten note which read “direct result of injury proof” however the report also indicated that he had a history of right shoulder pain and surgical repair to his right shoulder in 1993. The operative note dated August 23, 2001 reported, that appellant’s symptoms started around March 2000 when trying to open a stuck file cabinet. The Board notes that the history in these reports are incomplete and do not fully address appellant’s prior shoulder condition in 1993 or explain with medical reasoning how his current symptoms were related to the work incident on May 16, 2000.

The evidence of records suggests that appellant had an underlying shoulder condition prior to the claimed employment injury. He offered no detailed factual or medical information regarding this possible condition. The Board has held that a rationalized medical opinion must include a discussion of the nature of the underlying condition and how the alleged work factors affected the condition.⁶ When employment factors cause an aggravation of an underlying condition, the employee is entitled to compensation for periods of disability related to the aggravation.⁷ However, the fact that work activities may produce symptoms that are revelatory of an underlying condition, does not raise an inference of causal relationship between the condition and the employment.⁸ In any case, if appellant simply claims that he sustained the shoulder condition in the May 16, 2000 employment incident when attempting to open a jammed file cabinet. Without further proof, he has not met his burden of proof to establish that he sustained an injury in the performance of duty as alleged.

⁶ *Newton Ky Chung*, 39 ECAB 919 (1988).

⁷ *See Thomas D. Petrylak*, 39 ECAB 276 (1987).

⁸ *Dominic M. DeScala*, 37 ECAB 369 (1986).

Accordingly, the March 1, 2002 and April 19, 2001 decisions of the Office of Worker's Compensation Programs are hereby affirmed.

Dated, Washington, DC
September 18, 2002

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member