

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PEGGY DeCOL and U.S. POSTAL SERVICE,
POST OFFICE, Hicksville, N.Y.

*Docket No. 96-1432; Submitted on the Record;
Issued April 6, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty on April 23, 1992, as alleged.

The Board has duly reviewed the case on appeal and finds that appellant has failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty on April 23, 1992.

Appellant filed a claim on November 23, 1992 alleging that on April 23, 1992 she injured her lower back, neck and right shoulder while "washing doors from top to bottom which required extensive reaching and being in a squatting position for a long period of time." The Office of Workers' Compensation Programs denied appellant's claim finding that she failed to establish fact of injury on April 30, 1993. Appellant requested an oral hearing and by decision dated February 8, 1994 the hearing representative denied appellant's claim finding that the medical evidence did not support a causal relationship between her diagnosed conditions and her alleged employment duties on April 23, 1992. Appellant requested reconsideration on April 13, 1994 and the Office denied modification of the February 8, 1994 decision on January 6, 1995. Appellant again requested reconsideration on April 23, 1992 and the Office denied modification of its prior decision on February 7, 1996.

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.¹ In this case, the Office accepted that appellant performed the duties alleged on April 23, 1992.

¹ *Elaine Pendleton*, 40 ECAB 1143 (1989).

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.² 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.³

Appellant has submitted several medical reports in support of her claim, however, most of these reports do not provide a history of injury including the work activities on April 24, 1992. The reports which do not provide a correct history of injury are insufficient to meet appellant's burden of proof and establish her claim.

Dr. Harshad C. Bhatt, an orthopedic surgeon, completed a form report on May 15, 1992 and listed appellant's date-of-injury on April 24, 1992. He listed appellant's history of injury as "lifting" and checked "yes" that appellant's condition was causally related to her employment. Dr. Bhatt also stated that it was "undetermined" whether appellant's condition was an aggravation. He diagnosed lumbar radiculopathy. Although Dr. Bhatt provided the correct date-of-injury, he attributed appellant's condition to lifting rather than reaching and squatting. Furthermore, his opinion on the causal relationship consists of a checkmark "yes." The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.⁴ In addition, the explanation offered by Dr. Bhatt is not definitive on the issue of aggravation of a preexisting condition. Therefore, this report is not sufficient to meet appellant's burden of proof.

In a report dated March 15, 1994, Dr. Bhatt stated that appellant sustained a "work-related" injury on April 24, 1992. He described appellant's work activities and course of treatment. This report is not sufficient to meet appellant's burden of proof as Dr. Bhatt did not provide a diagnosis nor a statement of the causal relationship between her "work-related" injury and her work activities. Such clarifying statements are necessary as the remainder of Dr. Bhatt's reports of record give a history of lifting.

² See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

³ *James Mack*, 43 ECAB 321 (1991).

⁴ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

Dr. Daniel P. Bannard, a chiropractor, completed a report on July 22, 1993 and diagnosed spinal subluxations. He gave appellant's date-of-injury as April 1991. On August 18, 1993 Dr. Bannard stated appellant sustained an exacerbation of pain lifting boxes. In a report dated March 29, 1994, Dr. Bannard stated appellant's condition was proximately caused by her work activities on April 24, 1992. He concluded that appellant was totally disabled.

Dr. Bannard's March 29, 1994 report is insufficient to meet appellant's burden of proof as he did not provide a diagnosis. Although Dr. Bannard had previously diagnosed a subluxation of the spine, he attributed this condition to appellant's April 1991 employment injury rather than her April 1992 employment duties. Therefore, Dr. Bannard has not provided a diagnosis for the condition he attributes to appellant's April 1992 employment activities.

As appellant has failed to submit the necessary medical evidence to establish a causal relationship between her accepted work duties on April 24, 1992 and any diagnosed condition, she has failed to meet her burden of proof and the Office properly denied her claim.

The decision of the Office of Workers' Compensation Programs dated February 7, 1996 is hereby affirmed.

Dated, Washington, D.C.
April 6, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member