U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HENRY S. HOLBERT and U.S. POSTAL SERVICE,
POST OFFICE, Fort Worth, Tex.

Docket No. 97-1172; Submitted on the Record;
Issued December 28, 1998

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
WILLIE T.C. THOMAS:

The issue is whether appellant sustained an injury in the performance of duty on August 3, 1995.

On August 9, 1995 appellant, then a 52-year-old letter carrier, filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that on August 3, 1995 he felt a sharp pain in his stomach as he was loading a tray of mail into his vehicle. Appellant described the nature of his injury as a hernia. He did not stop work. In support of his claim, appellant submitted an August 23, 1995 letter from Dr. David Allen Stone, an osteopath specializing in general surgery, who examined appellant on August 9, 1995, and diagnosed an epigastric abdominal hernia "as a result of a job-related injury."[1] He further indicated that appellant's hernia required prompt surgical repair and that this condition prevented appellant from performing his duties and particularly heavy lifting.[2]

By decision dated December 28, 1995, the Office of Workers' Compensation Programs denied appellant's claim on the basis that the evidence failed to establish that he sustained a work-related injury as alleged. In an accompanying memorandum, the Office explained that the evidence of record did not support the fact that the claimed event, incident or exposure occurred at the time, place and in the manner alleged. The Office further explained that the medical evidence of record failed to establish that a medical condition resulted from the alleged trauma or exposure. Specifically, the Office noted that none of the medical evidence of record contained a description of the employment incident of August 3, 1995, or an explanation as to whether and how such incident inflicted injury.

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[1] Appellant indicated that he had a previously scheduled appointment for August 9, 1995 with Dr. Stone primarily because he had been experiencing nose bleeds and wanted to be certain he was not having a problem with his blood pressure. During this examination, Dr. Stone discovered appellant's hernia.

[2] Dr. Stone also completed a "return to work or school" form, dated August 23, 1995, indicating that appellant was under his care for a hernia and that appellant should not do any lifting over 10 pounds.

By letter postmarked January 12, 1996, appellant requested an oral hearing before the Office. The hearing was conducted on September 25, 1996, at which time the hearing representative explained to appellant the deficiencies in his claim. Specifically, the hearing representative explained that the claim could be established by additional evidence from Dr. Stone if the doctor could indicate his awareness of what happened and when it happened at work, and further explain why he related that incident to the hernia he diagnosed on August 9, 1995.

At the hearing, appellant submitted a September 3, 1996 report from Dr. Stone in which the doctor explained that he examined appellant that same day and that appellant complains persistently of a large epigastric abdominal hernia which is job related due to heavy lifting. Dr. Stone further noted that appellant had been suffering with symptoms related to the hernia since August 23, 1995 and that prompt surgical treatment was strongly recommended.

In a November 14, 1996 decision finalized on November 15, 1996, the Office hearing representative found that appellant had not established that he sustained an injury in the performance of his duties on August 3, 1995. The hearing representative indicated that she had previously advised appellant of the necessity of submitting reasoned medical evidence supporting appellant's claim that he sustained an injury on August 3, 1995. The hearing representative found that Dr. Stone did not substantiate or support his conclusion that appellant was injured at work.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act[3] 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 under the Act, that an injury was sustained in the performance of duty, and that any disability or specific condition for which compensation is being claimed is causally related to the employment injury.[4] 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.[5]

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.[6] The second component is whether the employment incident caused a personal injury. This latter component generally can be established only by medical evidence. To establish a causal relationship

[3] 5 U.S.C. § 8101 *et seq.*

[4] *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[5] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[6] *Elaine Pendleton*, *supra* note 4.

between the claimed condition, as well as any attendant disability, 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.[7] An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish a causal relationship.[8]

In the instant case, the hearing representative affirmed the earlier decision due to a lack of reasoned medical evidence explaining why the August 3, 1995 work incident caused an injury. While Dr. Stone indicated in both his August 23, 1995 and September 3, 1996 reports that appellant's hernia was work related, he did not identify a particular date of injury nor did he explain the nature of the relationship between the diagnosed condition and appellant's specific employment factors. Consequently, these reports provided by Dr. Stone do not constitute rationalized medical opinion evidence.[9] Furthermore, the remaining medical evidence of record, consisting of his August 9, 1995 office notes and the records pertaining to appellant's prior treatment in October 1992 for an unrelated condition, does not assist appellant in satisfying his burden under the Act. Inasmuch as appellant did not submit a physician's report explaining how specific employment factors would cause or aggravate a particular condition, the Office properly denied appellant's claim for compensation.

The November 14, 1996 decision finalized on November 15, 1996 of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
December 28, 1998

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

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

[8] *Victor J. Woodhams*, *supra* note 5.

[9] *See George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).