

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HARRY M. GOULDING and U.S. POSTAL SERVICE,
SEAFORD POST OFFICE, Seaford, N.Y.

*Docket No. 96-867; Submitted on the Record;
Issued February 11, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a transient ischemic attack on October 12, 1994 causally related to factors of his federal employment.

On October 20, 1994 appellant, then a 61-year-old letter carrier, filed a claim for an October 12, 1994 transient ischemic attack affecting his left upper extremity. Appellant attributed the attack to stress from being observed while casing mail for two-and-a-half hours by a route inspector. Appellant used sick leave to cover his absence between October 13 and November 21, 1994, and returned to light duty on November 22, 1994.¹

In an October 21, 1994 report, Dr. Steven G. Galler, an attending Board-certified internist, noted that appellant was under his care in a local hospital from October 12 to 18, 1994 “for treatment of Transient Ischemic Attack, ASHD [atherosclerotic heart disease], and HCVD [hypertensive coronary vascular disease].”

In a November 9, 1994 letter, the employing establishment noted that the route inspection was performed at “every Post Office,” and that appellant was informed what to expect prior to inspection week.

In a December 19, 1994 report, Dr. Carl S. Schreiber, an attending Board-certified cardiologist, released appellant to light-duty work, noting that appellant was not to carry mail

¹ The record indicates that appellant had a claim, No. 02-0677064, accepted for a February 8, 1994 “acute myocardial infarction - result of inclement weather.” This claim is not before the Board on the present appeal.

bags or lift more than 35 pounds, due to hypertension, history of myocardial infarction and the recent transient ischemic attack.²

In a December 29, 1994 letter, appellant stated that he was watched constantly by the route inspector from the time of his arrival at 7:30 a.m. until he was removed from the employing establishment by ambulance. Appellant stated that an employing establishment supervisor, Mr. Marvin Gatling, told him that he should not have been placed under inspection as the stress would be detrimental to his hypertension.

By decision dated January 13, 1995, the Office denied appellant's claim on the grounds that fact of injury was not established. Appellant disagreed with this decision, and requested an oral hearing, held on August 30, 1995. Appellant submitted additional evidence prior to the hearing.

In an October 12, 1994 emergency room report, Dr. Misa, an attending neurologist, noted appellant's employment as a letter carrier, a sudden onset of left hand and arm numbness and weakness subsiding over a 40-minute period, and diagnosed a transient ischemic attack.

In an October 12, 1994 report, Dr. Galler provided a history of "los[s] of power and feeling in L[ef]t arm down to L[eft] hand while at work sorting mail. ... Has had no chest pains since he had MI [myocardial infarction] February 8, 1994 except for one episode in July while lifting heavy packages at work - that subsided after stopping."

In an October 21, 1994 hospital discharge report, Dr. Galler provided a history of appellant's emergency admission on October 12, 1994 with left arm weakness and numbness, and a medical history positive for hypertension and myocardial infarction. Appellant's blood pressure was 197/90, heart rate and rhythm were regular and the neurological examination was intact. Chest x-rays showed arteriosclerotic disease of the aorta, carotid doppler studies showed "insignificant disease in the right carotid system," and imaging scans of the brain were negative for abnormality. Appellant was hospitalized for anticoagulant therapy and discharged on October 18, 1994 with diagnoses of a transient ischemic attack, arteriosclerotic heart disease, hypertensive cardiovascular disease and an old myocardial infarction.³

At the August 30, 1995 hearing, appellant explained that he felt he was under great pressure on October 12, 1994 knowing that he was to have a route inspection that day, being timed with a stop watch to put 18 letters per minute into the case, with 376 mail stops. The hearing representative explained the type of medical evidence needed to establish his claim, including a rationalized statement from his attending cardiologist detailing the October 12, 1994 attack, describing factors of appellant's job as a letter carrier, and explaining how and why those factors would cause the transient ischemic attack.

² Appellant was advised by December 5 and 28, 1994 letters of the type of medical and factual evidence needed to establish his claim.

³ Appellant also submitted hospital laboratory and diagnostic imaging reports that do not mention work factors or otherwise address causal relationship.

Following the hearing, appellant submitted a September 20, 1995 report from Dr. Schreiber, noting that appellant “experienced a transient ischemic attack (mini stroke) while working as a postal letter carrier on October 12, 1994, ... [with] weakness in the left hand and numbness in the left arm and hand. The diagnosis was confirmed by a neurologist, Dr. Misa. There was no history of cerebral vascular disease. It appears that his attack occurred during his work as a letter carrier and therefore seems job related.”⁴

In a September 20, 1995 letter, the employing establishment noted that appellant had a route inspection in November 1991 and on several prior occasions without incident.

In a September 28, 1995 letter, appellant explained that the November 1991 route inspection was before his February 1994 heart attack, and that he was confident regarding this inspection as he was in good health and did his job very well. Appellant noted that the postmaster, Mr. Trahan, was transferred recently to a smaller post office due to the events surrounding appellant’s transient ischemic attack, appellant’s EEO (Equal Employment Opportunity) complaint alleging age discrimination and a series of other unspecified incidents.

By decision dated and finalized October 20, 1995, an Office hearing representative affirmed the January 13, 1995 decision, finding that causal relationship was not established. The hearing representative found that appellant had submitted insufficient rationalized medical evidence explaining how and why the claimed transient ischemic attack was related to factors of appellant’s federal employment.

The Board finds that appellant has not established that he sustained a transient ischemic attack on October 12, 1994 causally related to factors of his federal employment.

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 in the time, place and manner alleged.⁵ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

In this case, the Office has accepted that the alleged events of October 12, 1994 occurred at the time and place and in the manner alleged. Appellant has thus met the first element of his burden of proof. Appellant must then establish causal relationship, the second element of his burden of proof, through the submission of rationalized medical evidence demonstrating that his claimed transient ischemic attack was caused by the accepted events of October 12, 1994 or other accepted factors of his federal employment. In this case, the Office found that appellant

⁴ Appellant also submitted copies of hospital diagnostic imaging reports. These reports do not mention work factors or otherwise address causal relationship.

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.* For a definition of the term “injury,” see 20 C.F.R. § 110.5(a)(14).

did not establish that these accepted events caused or aggravated the claimed medical condition, as he submitted insufficient rationalized medical evidence.

In support of his claim, appellant submitted reports from Dr. Galler, a Board-certified internist, Dr. Misa, a neurologist, and Dr. Schreiber, a Board-certified cardiologist.

Dr. Galler's opinion is of diminished probative value on the critical issue of causal relationship in several respects. In an October 12, 1994 report, Dr. Galler stated that appellant lost power and feeling in the left upper extremity that day while casing mail, had a history of a February 8, 1994 myocardial infarction, and diagnosed a transient ischemic attack. However, Dr. Galler did not mention the presence of the postal inspector, whether appellant reported any unusual stress, or why casing mail would produce a transient ischemic attack. Also, Dr. Galler did not explain the pathophysiologic significance of the February 8, 1994 heart attack, an accepted employment factor, on the development of the transient ischemic attack. In an October 21, 1994 hospital discharge report, Dr. Galler noted that on presentation in the emergency room on October 12, 1994, appellant's blood pressure was 197/90, but did not attribute this finding to casing mail or any other employment incident or factor.

In an October 12, 1994 emergency room report, Dr. Misa, an attending neurologist, noted appellant's employment as a letter carrier, a sudden onset of left hand and arm numbness and weakness, and diagnosed a transient ischemic attack. However, Dr. Misa did not provide medical rationale explaining how and why casing mail, or any other factor of appellant's federal employment, would cause a transient ischemic attack. Also, Dr. Misa did not mention the presence of the postal inspector or relate appellant's account of being under increased stress during the October 12, 1994 postal route inspection.

In a December 19, 1994 report, Dr. Schreiber noted work restrictions due to appellant's hypertension, history of myocardial infarction and the recent transient ischemic attack. However, he did not discuss the impact, if any, of the accepted February 8, 1994 myocardial infarction on the development of the transient ischemic attack. In a September 20, 1995 report, Dr. Schreiber opined that appellant's transient ischemic attack was work related as it occurred while appellant was at the employing establishment casing mail, and that it "appear[ed] that his attack occurred during his work as a letter carrier and therefore seems job related." However, the Board has held that the mere fact that a condition manifests itself or worsens during a period of employment does not raise an inference of a causal relationship between that condition and factors of federal employment.⁷ Therefore, this opinion on causal relationship is of greatly diminished probative value as it is speculative,⁸ and lacks supporting medical rationale.⁹

The Board notes that appellant was advised in detail by December 5 and 28, 1994 letters, and at the August 30, 1995 hearing of the necessity of submitting rationalized medical evidence

⁷ *Froilan Negron Marrero*, 33 ECAB 796 (1982).

⁸ See *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (where the Board held that medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value).

⁹ *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

in order to establish his claim. The Office advised appellant that without rationale addressing causal relationship, his physician's opinions would be of insufficient probative value to establish his claim. Despite these advisements, appellant did not submit such evidence.

Consequently, appellant has failed to established that he sustained a transient ischemic attack in the performance of duty on October 12, 1994, as he submitted insufficient medical evidence to establish a pathophysiologic causal relationship between specific factors of his federal employment and his claimed condition.

The decision of the Office of Workers' Compensation Programs dated and finalized October 20, 1995 is hereby affirmed.

Dated, Washington, D.C.
February 11, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member