

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BRENDA J. JACKSON and DEFENSE LOGISTICS AGENCY,
DEFENSE DISTRIBUTION REGION WEST, Stockton, Calif.

*Docket No. 96-594; Submitted on the Record;
Issued May 15, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained an injury in the performance of duty causally related to factors of her federal employment.

On May 2, 1995 appellant, then a 41-year-old warehouse worker, filed an occupational disease claim alleging that she sustained a back injury on March 8, 1993 which she attributed to factors of her federal employment. Appellant was separated from her federal job on April 16, 1993.

In a form dated May 17, 1995, appellant stated that on March 8, 1993 she was reaching overhead and sustained an injury to her back.

In a dispensary permit dated March 8, 1993, a physician indicated that appellant should perform sedentary work with no bending or lifting for 24 hours.

In a work status report dated June 9, 1993, Dr. John A. Ward, a Board-certified internist, related that appellant complained of back pain and he gave as the date of injury March 8, 1993. He diagnosed a thoracic sprain and indicated that appellant was unable to work at that time.

In clinical notes dated August 8, 1994, Dr. Nuntaya Jiras, a Board-certified internist, noted that appellant had sustained back trauma one year previously. He provided findings on examination and diagnosed chronic low back pain.

In a functional capacity test dated July 26, 1994, Dr. Ward diagnosed chronic thoracic sprain and provided work restrictions. He stated that appellant had a history of two work-related injuries, on December 16, 1991 and March 8, 1993, both diagnosed as thoracic sprains.

In a form report dated October 20, 1994, Dr. Jiras related that appellant was examined on that date for chronic low back pain and indicated that she should perform light duty with no lifting over 10 pounds for 4 weeks.

In a note dated January 17, 1995, Dr. Jiras diagnosed chronic mid-back pain but did not express an opinion as to the cause of the condition.

In a report dated June 27, 1995, Dr. L. Gough related that appellant complained of back pain from “an old on-the-job injury.” He indicated that he did not examine appellant on that date because she had missed her appointment time but he spoke to her and referred her for physical therapy.

In a statement dated July 12, 1995, appellant noted that she had been told by a physician that she had arthritis and a degenerative disc problem.

In a disability certificate dated August 9, 1995, a physician whose signature is illegible diagnosed chronic lumbosacral strain and indicated that appellant could return to full duty with no restrictions on that date.

In a form dated September 20, 1995, a physician whose signature is illegible diagnosed persistent low back pain since March 1993.

By decision dated November 6, 1995, the Office of Workers’ Compensation Programs denied appellant’s claim for compensation benefits on the grounds that the evidence of record failed to establish that she had sustained any disability or medical condition causally related to factors of her federal employment.

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty causally related to factors of her federal employment.

A person who claims benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which she claims compensation is caused or adversely affected by her employment.² This burden includes the necessity of furnishing rationalized medical opinion evidence showing a causal relationship between the alleged condition and factors of her employment which is based upon a proper medical and factual background of the claimant and a specific and accurate history of employment incidents or factors alleged to have caused or exacerbated the claimed disability.³ The medical evidence submitted by appellant did not meet this criteria.

In this case, appellant alleged that she sustained a back condition on March 8, 1993 when she reached overhead. However, she also noted in another statement of record that she had been told by a physician that she had arthritis and a degenerative disc in her back and neither of these conditions has been established to be work related.

¹ 5 U.S.C. §§ 8101-8193.

² *Birger Areskog*, 30 ECAB 571 (1979).

³ *Philip J. Deroo*, 39 ECAB 1294 (1988); *William Nimitz, Jr.*, 30 ECAB 567 (1979).

In a dispensary permit dated March 8, 1993, a physician indicated that appellant should perform sedentary work with no bending or lifting for 24 hours. As the physician did not provide an opinion as to the cause of appellant's condition, this dispensary permit is not sufficient to establish that appellant sustained an employment-related injury on March 8, 1993, as alleged.

In a work status report dated June 9, 1993, Dr. Ward, a Board-certified internist, related that appellant complained of back pain and he gave as the date of injury March 8, 1993. He diagnosed a thoracic sprain and indicated that appellant was unable to work at that time. However, he provided no opinion as to the cause of the condition and therefore this report is not sufficient to discharge appellant's burden of proof.

In clinical notes dated August 8, 1994, Dr. Jiras, a Board-certified internist, noted that appellant had sustained back trauma one year previously. He provided findings on examination and diagnosed chronic low back pain. However, he provided no opinion as to the cause of the condition. Therefore, this report does not support appellant's claim of an employment-related back injury on March 8, 1993.

In a functional capacity test dated July 26, 1994, Dr. Ward diagnosed chronic thoracic sprain and provided work restrictions. He stated that appellant had a history of two "work-related" injuries, on December 16, 1991 and March 8, 1993, both diagnosed as thoracic sprains. However, Dr. Ward did not provide a rationalized medical opinion explaining how appellant's back condition was causally related to specific factors of her employment and therefore this medical evidence does not establish an employment-related injury.

In a form report dated October 20, 1994, Dr. Jiras related that appellant was examined on that date for chronic low back pain and indicated that she should perform light duty with no lifting over 10 pounds for 4 weeks. Dr. Jiras did not indicate a cause of the condition and therefore this report is not sufficient to discharge appellant's burden of proof. Additionally, the Board notes that Dr. Jiras indicated in two of his reports of record that appellant's back problem was in the low back area while Dr. Ward indicated that the problem was in the thoracic area of the back and this discrepancy is not explained in the case record.

In a note dated January 17, 1995, Dr. Jiras diagnosed chronic mid-back pain but did not express an opinion as to the cause of the condition. Lacking a rationalized opinion as to the cause of the condition, this medical note is not sufficient to discharge appellant's burden of proof.

In a report dated June 27, 1995, Dr. Gough related that appellant complained of back pain from "an old on-the-job injury." He indicated that he did not examine appellant. As this physician did not examine appellant and did not provide any diagnosis or any opinion as to the cause of her back pain, this report does not support appellant's claim of an employment-related back condition.

In reports dated August 9 and September 20, 1995, a physician whose signature is illegible diagnosed chronic low back pain but there is no rationalized medical opinion as to the cause of the condition. Therefore, these reports do not establish that appellant sustained an

employment-related injury. Additionally, these reports relate to a low back condition whereas most of the other medical reports discuss problems in the thoracic area of the back.

As appellant has failed to provide any rationalized medical evidence establishing that her claimed back condition on or about March 8, 1993 was causally related to factors of her federal employment, she has failed to meet her burden of proof.

The November 6, 1995 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
May 15, 1998

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member