

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JON A. CARAVAHO and DEPARTMENT OF THE NAVY,
PUBLIC WORKS CENTER, Pearl Harbor, Hawaii.

*Docket No. 97-288; Submitted on the Record;
Issued November 19, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof to establish that he sustained an injury on March 13, 1995 in the course of his federal employment.

On March 16, 1995 appellant, then a 32-year-old hazardous material handler, filed a claim for compensation alleging that on March 13, 1995 he twisted his back while in the performance of duty.

On April 18, 1996 the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record failed to establish that his medical condition was causally related to his work activity on March 13, 1995.

The Board has duly reviewed the case record in the present appeal and finds that appellant failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty on March 13, 1995, as alleged.

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

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

In this case, Dr. Mark Hoffman, a chiropractor, examined appellant on March 11, 1995 and restricted him to light duty commencing on March 20, 1995 and returned him to regular duty two to three weeks from that date. In a March 17, 1995 medical report, Dr. Hoffman stated that he had obtained x-rays taken on March 11, 1995 regarding appellant's injury which he noted occurred on March 13, 1995. Since appellant claimed that his injury occurred on March 13, 1995, Dr. Hoffman's reports are of no probative value because they do not establish that appellant sustained an injury on March 13, 1995. Although the doctor submitted a March 14, 1995 medical report noting that appellant's injury occurred on March 13, 1995, the Office determined through an investigation with his office that appellant was indeed treated on March 11, 1995 and that x-rays were taken on that day. Therefore, the March 14, 1995 medical report provides no probative value to establish appellant's claim because the doctor relied on x-rays taken prior to the alleged injury to support his recommended subsequent course of treatment which he noted in his March 17, 1995 report. The probative value of x-rays is dependent on the reasonable time after the alleged incident. Since the x-rays were taken prior to the alleged incident, they lack the requisite probative value to support appellant's claim.⁴

In a March 13, 1995 medical report, Dr. Brian Y. Mihara, Board-certified in internal medicine, stated that he examined appellant that day and that he had lumbar pain with right leg symptoms of unknown etiology. In a March 14, 1995 medical report, Dr. Lance Yokochi, a specialist in internal medicine, stated that he examined appellant that day and found that he had a mild to moderate degree of paraspinal muscle tightness and was mildly tender over the sciatic region on the right side. However, neither medical report established a causal relationship between appellant's condition and the alleged March 13, 1995 incident and thus are of limited probative value.⁵

In multiple physician's reports, Dr. Yokochi marked appropriate responses to indicate that appellant's lumbosacral muscle strain was causally related to his alleged March 13, 1995 injury. These reports are of limited probative value because the Board has long held that a mere check mark without a supporting rationalized medical opinion is insufficient to establish appellant's claim.⁶ Further, Dr. Yokochi did not demonstrate a complete factual awareness of appellant's medical history by failing to note appellant's treatment by Dr. Hoffman on March 11, 1995. Absent a rationalized medical opinion reflecting a complete factual awareness of appellant's medical history, Dr. Yokochi's medical report is insufficient to establish a causal relationship between appellant's medical condition and the alleged incident.⁷

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Compare Elizabeth S. Richardson*, 42 ECAB 346 (1991).

⁵ *Mark A. Cacchione*, 46 ECAB 148 (1994); *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

⁶ *See supra* note 4.

⁷ *Daniel J. Overfield*, 42 ECAB 718 (1991).

Although the Office, on July 21 and September 22, 1995, advised appellant of the type of medical evidence needed to establish his claim, appellant failed to submit medical evidence responsive to the request. Therefore, the Board finds that the evidence of record in this case was insufficient to meet appellant's burden of proof.

The decisions of the Office of Workers' Compensation Programs dated August 30 and April 18, 1996 are affirmed.

Dated, Washington, D.C.
November 19, 1998

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member