

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHERYL D. GRIMMETT and U. S. POSTAL SERVICE,
POST OFFICE, Dallas, Tex.

*Docket No. 97-2273; Submitted on the Record;
Issued April 15, 1999*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant established that she sustained a work-related injury on April 18, 1996.

On July 10, 1996 appellant, then a 44-year-old clerk, alleged that she injured her left hip while in the performance of duty on April 18, 1996.

On September 3, 1996 the Office of Workers' Compensation Programs, in a decision, denied appellant's claim on the grounds that the medical evidence of record failed to establish that appellant sustained a work-related injury on April 18, 1996. On February 21, 1997 appellant requested reconsideration. On April 11, 1997 the Office denied appellant's application for review finding that the evidence submitted in support of the application was not sufficient to warrant review of the prior decision.

The Board has duly reviewed the case record in this appeal and finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty on April 18, 1996.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.¹

¹ *Ruby Fish*, 46 ECAB 276 (1994).

The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. 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.²

In this case, appellant submitted several reports from Dr. Philip Elizondo, appellant's treating physician and Board-certified in orthopedic surgery. In the reports dated May 1 and 15, and June 12, 1996, he noted appellant's preexisting 1968 left hip injury and her subjective complaints of pain. Dr. Elizondo also noted that appellant had had a bone scan which was read as normal as well as x-rays which were within normal limits. These reports are of diminished probative medical value inasmuch as they failed to identify appellant's alleged April 18, 1996 work-related injury and failed to establish a diagnosis regarding appellant's medical condition. In an August 14, 1996 medical report, Dr. Elizondo referred to appellant's alleged April 18, 1996 work-related left hip incident for the first time, noting that appellant's initial visit on May 1, 1996 was in response to the pain she felt as a result of the April 18, 1996 work-related incident and that appellant's speech condition made communication regarding appellant's detailed medical history difficult.³ However, this report is also of limited probative medical value because it is not supported by a rationalized medical opinion establishing a causal relationship between the alleged incident on April 18, 1996 and her current medical condition.

Appellant also submitted several medical reports from Dr. Daniel Shalev, Board-certified in anesthesiology and pain management. In a September 4, 1996 report, he stated that appellant hurt her back at work on April 18, 1996 when she twisted her back while pushing a mail cart. Dr. Shalev also noted appellant's history of recurrent pain since that time. Based on examination that day, he determined that appellant had multiple medical conditions including sacroiliac dysfunction, lumbar facet syndrome, myofascial pain syndrome, possible sympathetic maintained left hip pain, possible left piriformis syndrome and possible plantar fasciitis of the left foot. However, this report did not include a rationalized medical opinion establishing a relationship between appellant's condition and her alleged work-related incident. Although Dr. Shalev related appellant's history of injury as having occurred on April 18, 1996 while at work, he failed to provide a medical explanation as to how the act of pushing a cart in April 1996 caused any of appellant's diagnosed conditions on September 4, 1996. Similarly, the remainder of Dr. Shalev's reports addressed treatment and procedures with respect to appellant's condition, but none included a rationalized medical opinion establishing a causal relationship between appellant's condition and her alleged work-related injury. For example, his reports dated September 24 and November 1, 1996 essentially updated her diagnoses, while his September 12 and December 4, 1996 reports merely noted steroidal injections. Further, Dr. Joseph E. Mouhanna, a colleague of Dr. Shalev and Board-certified in anesthesiology, reported that he

² *Charles E. Burke*, 47 ECAB 185 (1995).

³ Appellant is deaf and mute.

performed steroidal injections on October 15, 1996 and February 24, 1997, but failed to provide an opinion regarding the cause of appellant's condition.

Consequently, appellant has not submitted sufficient evidence to establish that she sustained a work-related injury on April 18, 1996.

The decisions of the Office of Workers' Compensation Programs dated April 11, 1997 and September 3, 1996 are affirmed.

Dated, Washington, D.C.
April 15, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member