

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT L. FRAZIER and U.S. POSTAL SERVICE,
POST OFFICE, Tacoma, Wash.

*Docket No. 97-951; Submitted on the Record;
Issued February 22, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant sustained an injury in the performance of duty, as alleged.

On March 11, 1995 appellant, then a 45-year-old mail processing equipment mechanic, filed a claim for a traumatic injury, alleging that on September 1, 1994 he bumped his head on an overhead conveyer while traveling north on the overhead footbridge. Appellant stated that he jammed and twisted his spine and pinched the nerves in his left hand. He stated that he felt no immediate pain but in three weeks, he noticed he had injured himself. Appellant missed work from October 15 to December 17, 1994 and first sought medical treatment on October 3, 1994. On March 21, 1995 the employing establishment controverted the claim.

The medical evidence appellant submitted to establish his claim included an attending physician's report, Form CA-20a, dated November 18, 1994 and progress notes dated November 11 and 23, 1994 from Dr. Keith Knopf, a family practitioner, a report from Dr. Lance Lorfeld, a chiropractor, dated April 25, 1995 and work restriction and disability forms dated October 3 to December 5, 1994 diagnosing strain in appellant's left upper extremity and cervical sprain/strain with resultant radiculopathy.

In his report dated November 11, 1994, Dr. Knopf stated that the date of appellant's injury was September 1, 1994 and that appellant jammed his neck and had pain in his neck and left arm. He diagnosed myofascial strain of the neck and "R/O" (*i.e.*, rule out) herniated cervical disc. In his November 18, 1994 report, Dr. Knopf diagnosed myofascial strain of neck and checked the "yes" box that appellant's condition was related to the September 1, 1994 injury.

In his April 25, 1996 report, Dr. Lorfeld considered appellant's history of injury, performed a physical examination and found that the x-ray revealed multiple subluxations involving the third, fourth, fifth and seventh cervical vertebrae. He diagnosed acute traumatic moderate sprain/strain of the cervical spine and related musculature with attendant left radiculopathy and attendant multiple cervical subluxation complexes. Dr. Lorfeld stated:

“Whenever someone hits their head hard enough to jam their neck it is very likely they may experience some form of radicular dysesthesia. It is quite obvious that when [appellant] hit his head on the conveyor guard that he jammed his neck. Following this trauma he started experiencing left arm numbness and pain. The orthopedic testing performed revealed the multiple segmental dysfunction throughout the cervical spine as well as a nerve root irritation. Through the examination I revealed multiple cervical subluxations both demonstrated in the radiography (x-ray) as well as through motion palpation.”

By decision dated May 9, 1995, the Office of Workers’ Compensation Programs denied the claim stating that appellant had not sustained an injury, as alleged.

By letter dated May 19, 1995, appellant requested an oral hearing before an Office hearing representative which was held on February 27, 1996. At the hearing, appellant testified that on September 1, 1994 he hit one of the conveyor systems while walking on an overhead bridge. Appellant testified that three weeks later he had numbness in his left hand and a “knot” in his left arm, “like somebody was trying to stick a screwdriver through it,” and that he sought medical treatment at that time. Appellant described his subsequent medical treatment. His representative at the hearing stated he had written confirmation from appellant’s supervisor that appellant worked on September 1, 1994.

By decision dated July 22, 1996, the Office hearing representative affirmed the Office’s May 9, 1995 decision.

The Board finds that appellant met his burden in establishing that he sustained an injury in the performance of duty on September 1, 1994, as alleged.

Dr. Lorfeld’s April 25, 1995 report establishes that appellant sustained subluxations at the third, fourth, fifth and seventh cervical vertebrae based on x-ray. He related the subluxations to the incident of appellant’s jamming his neck at work on September 1, 1994 when he hit his head on the conveyor belt. Dr. Knopf’s reports dated November 11 and November 18, 1994 establish that appellant sustained a cervical strain as a result of the September 1, 1994 employment injury. There is no contrary evidence in the record. Appellant is therefore entitled to medical benefits for the treatment of his subluxation and cervical strain as encompassed by the Federal Employees’ Compensation Act¹ and to disability benefits for time he missed work due to his cervical strain. The case must be remanded for the Office to determine the periods of disability and accordingly award compensation.

The decisions of the Office of Workers’ Compensation Programs dated July 22, 1996 and May 9, 1995 are hereby reversed, and the case is remanded for further consideration consistent with this decision.

Dated, Washington, D.C.

¹ See 5 U.S.C. § 8103(a); *Sheila A. Johnson*, 46 ECAB 323, 326 (1994); *Peggy J. Reed*, 46 ECAB 139, 141 (1994).

February 22, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member