

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of THEODUS X. CRANE and U.S. POSTAL SERVICE,
ATLANTA BULK MAIL CENTER, Atlanta, Ga.

*Docket No. 97-1832; Submitted on the Record;
Issued February 18, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant met his burden of proof to establish that he sustained chronic neck strain in the performance of duty causally related to factors of his federal employment.

Appellant filed an occupational disease claim on August 16, 1995 for chronic neck pain, which he attributed to his work as a mailhandler and to prior employment injuries to his neck. The Office of Workers' Compensation Programs, in a decision dated January 5, 1996, denied appellant's claim on the grounds that he did not submit sufficient medical evidence to establish an injury causally related to factors of his federal employment. Appellant requested reconsideration and submitted an additional medical report. In a merit decision dated April 9, 1997, the Office found that the evidence submitted was insufficient to warrant modification of its prior decision.

The Board has duly reviewed the case record in the present appeal and finds that appellant did not meet his burden of proof to establish that he sustained chronic neck strain in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim, including the fact 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 is causally related to the employment injury.²

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

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the 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 claimant.³ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.⁴ 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,⁵ must be one of reasonable medical certainty,⁶ 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.⁷ The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁸

In the present case, appellant alleged that he sustained chronic neck strain due to standing, bending and lifting during his work as a mailhandler and also due to his prior employment-related injuries to his neck. Although the Office accepted the occurrence of the claimed employment factors, appellant did not submit sufficient medical evidence to establish that he sustained an occupational injury due to these factors.

In support of his claim, appellant submitted a form report dated August 15, 1995 from Dr. Leonard Perryman, his attending physician, who diagnosed chronic neck pain and a left foot mass and checked "yes" that the condition was caused or aggravated by an employment activity. However, the opinion of a physician on causal relation which consists only of checking "yes" to a form's question of whether appellant's condition was related to his employment, without any explanation or rationale, has little probative value and is insufficient to establish causal relation.⁹

³ *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384-85 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

⁹ *Robert J. Krstyen*, 44 ECAB 227 (1992).

In a report dated November 30, 1995, Dr. Perryman discussed appellant's history of chronic neck pain since January 1986 when he was shot in the neck and his history of two motor vehicle accidents. He related that Dr. Howard Berkowitz, to whom he referred appellant for an examination, diagnosed chronic cervical strain.

In a report dated December 16, 1996, Dr. Perryman stated:

“[Appellant’s] condition is directly related to his job activities. The constant standing, bending, lifting, pushing and pulling is constantly aggravating his medical condition. [Appellant’s] history has been known to his employer for some time. [He] has a 15 [percent] partial disability due to an on[-]the[-]job injury of August 1987, he was injured again on the job July 1992.”

Dr. Perryman, however, does not specifically discuss appellant's medical condition of chronic neck pain from being shot in the neck or support his opinion that employment activities aggravated his chronic neck pain with medical rationale. Therefore, his opinion is of diminished probative value.¹⁰

An award of compensation may not be based upon surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between his condition and his employment.¹¹ To establish causal relationship, appellant must submit a physician's report, in which the physician reviews that factors of employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed condition.¹² Appellant failed to submit such evidence and therefore failed to discharge his burden of proof.

¹⁰ See *Charles H. Tomaszewki*, 39 ECAB 461 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

¹¹ *William S. Wright*, 45 ECAB 498 (1993).

¹² *Id.*

The decision of the Office of Workers' Compensation Programs dated April 9, 1997 is hereby affirmed.

Dated, Washington, D.C.
February 18, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member