

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROBERT E. COLE and U.S. POSTAL SERVICE,  
POST OFFICE, San Diego, Calif.

*Docket No. 97-799; Submitted on the Record;  
Issued January 4, 1999*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a right groin injury while in the performance of duty.

On August 15, 1995 appellant, then a 47-year-old letter box mechanic, filed a claim for compensation alleging that on August 11, 1995 he injured his left groin while in the performance of duty.

The Office of Workers' Compensation Programs subsequently authorized left groin surgery.

On September 21, 1995 Dr. Festus B. Dada, appellant's treating physician and a Board-certified surgeon, requested authorization to perform surgery on appellant's left inguinal hernia. On October 24, 1995 he stated that he operated on appellant's left inguinal area on October 16, 1995.<sup>1</sup> In a medical report dated October 26, 1995, Dr. Dada stated he saw appellant for a follow-up appointment on that date and noted that he could return to work on November 20, 1995. In a duty status report dated November 14, 1995, he noted that appellant had injured his left groin on August 11, 1995 and that he was released to return to work on November 20, 1995. In a medical report dated December 11, 1995, Dr. Dada requested authorization to perform surgery on appellant's right inguinal hernia. In a medical report dated November 30, 1995 and received *via* facsimile machine on January 23, 1996, he noted appellant's right groin pain, his recent medical history of left inguinal hernia operation, and appellant's work requirement of lifting 70-pound objects. In a medical report dated February 2, 1996, Dr. Dada stated that he had examined appellant on September 21, 1995 and found that he was symptomatic with pain in both groins, but because of "overwhelming tenderness in the left side," surgery was performed on the left hernia on October 16, 1995. In a report dated

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<sup>1</sup> The Board notes that the report incorrectly stated that Dr. Dada operated on appellant's right inguinal area.

February 2, 1996, he stated that appellant had a “hernia on the right side which has never been operated on before.”

On February 28, 1996 the Office, in a decision, denied appellant’s claim on the grounds that appellant failed to establish that he had a right groin injury causally related to his employment.

On December 13, 1996 appellant requested reconsideration of the Office’s February 28, 1996 decision denying benefits. On December 26, 1996 the Office denied appellant’s request in a nonmerit decision.

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>2</sup> has the burden of establishing the essential elements of his or her claim<sup>3</sup> including the fact that the individual is an “employee of the United States” within the meaning of the Act,<sup>4</sup> that the claim was timely filed within the applicable time limitation period of the Act,<sup>5</sup> 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.<sup>6</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>7</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>8</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>9</sup>

In this case, appellant submitted medical reports regarding the left inguinal hernia from his treating physician, Dr. Dada, dated September 21, October 24 and 26 and November 14, 1995, none of which referred to appellant’s right groin injury. It was not until January 23, 1996 that he submitted a medical report dated November 30, 1995 which specifically identified right groin pain. A December 11, 1995 notation also mentions a right groin condition. However, neither of these reports nor the February 2, 1996 report established a causal relationship between

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<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.110.

<sup>4</sup> See *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

<sup>5</sup> 5 U.S.C. § 8122.

<sup>6</sup> *Id.*

<sup>7</sup> See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>8</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *Id.* For a definition of the term “injury,” see 20 C.F.R. § 10.5(a)(14).

appellant's right groin condition and his employment. Dr. Dada's reports do not relate appellant's right groin condition to specific, compensable factors of appellant's employment and therefore they have little probative value and are insufficient to satisfy appellant's burden of proof. Medical reports not containing rationale on causal relationship are entitled to little probative value and are generally insufficient to meet appellant's burden of proof.<sup>10</sup>

Although the Office, on December 12, 1995 and January 19, 1996, 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 December 26 and February 28, 1996 are affirmed.

Dated, Washington, D.C.  
January 4, 1999

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>10</sup> *Arlonia B. Taylor*, 44 ECAB 591 (1993).