

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KATHLEEN F. ERICKSON and U.S. POSTAL SERVICE,
POST OFFICE, Colton, Oreg.

*Docket No. 97-1434; Submitted on the Record;
Issued January 6, 1999*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has established that her back condition is causally related to factors of her federal employment.

The Board has reviewed the record and finds that appellant has not met her burden of proof in this case.

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

The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and the claimant's federal employment.² Neither the fact that the condition became manifest during a period of federal employment, nor the belief of appellant that the condition was caused or aggravated by her federal employment, is sufficient to establish causal relation.³

¹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

² *See Walter D. Moorehead*, 31 ECAB 188 (1979).

³ *Manuel Garcia*, 37 ECAB 767 (1986).

In the present case, appellant filed a claim on October 26, 1995 alleging that her cervical condition was causally related to repetitive motion in her federal employment. Appellant alleged that the repetitive duties as a rural carrier, which required her to case and deliver mail, aggravated the cervical area of her spine.

In order to meet her burden of proof appellant must submit probative medical evidence, based on a complete and accurate background, establishing causal relationship between the identified employment factors and the diagnosed condition. In a medical report dated October 26, 1995, Dr. David B. Farley, appellant's treating physician and Board-certified in Family Practice, stated that appellant had radicular pain in her right arm that was secondary to a herniated disc, degenerative arthritis and degenerative disc disease. The doctor noted that appellant was seen initially on October 9, 1995 and that a magnetic resonance imaging (MRI) scan and cervical spine x-rays revealed a disc herniation at C4-5 and disc space narrowing at C4, 5, 6 and 7 consistent with degenerative disc disease. He stated that "the most probable contributor to her current symptoms is her occupational status."

In an attending physician's report dated December 12, 1995, Dr. Farley checked yes indicating that appellant's condition was employment related.

In a medical report dated March 8, 1996, Dr. Donald A. Peterson, an office referral physician and Board-certified in orthopedic surgery, stated that he had examined appellant on that date for neck pain and provided findings. Dr. Peterson noted appellant's history of a herniated lumbar disc and reviewed her medical treatment for her cervical symptoms. Upon examination, he noted that appellant had a normal degree of cervical lordosis and a flattening of the thoracic kyphosis. There was no pain with cervical compression, negative Spurling maneuver and no scapular winging. Dr. Peterson noted prominence of the right thoracic rib hump and a right midthoracic curve and a mild degree of scapular symmetry. Range of motion findings were flexion at 60 degrees, extension at 80 degrees, right and left lateral bending at 40 degrees and cervical rotation at 85 degrees to the left and 80 degrees to the right. He diagnosed appellant with cervical spondylosis. Regarding causal relationship, Dr. Peterson stated that appellant's degenerative disc disease was not caused by her employment. He noted that diagnostic testing of October 10 and 24, 1995 showed narrowing of the neural foramina but no significant spinal cord indentation. For this reason he did not concur with the radiological diagnosis of a C4-5 disc herniation. Dr. Peterson stated that appellant's cervical spondylosis was coincident with her employment. He found that there was no evidence of a herniated disc upon examination and no specific traumatic event at work. Further, he noted that appellant's condition did not begin at work and that the lifting mechanism which appellant claimed to have caused her condition was not clinically associated with the diagnosed condition.

The Board finds that Dr. Farley's reports are of diminished probative value because the physician provided insufficient rationale to establish a causal relationship between appellant's employment and her diagnosed cervical condition. In the October 26, 1995 report, he stated that "the most probable contributor" to appellant's symptoms was her occupational status. However, he failed to provide an explanation in support of his conclusion that appellant's condition was caused by her employment and thus his reports are of limited probative value. The Board has held that an award of compensation may not be based on surmise, conjecture or speculation or

upon appellant's belief that there is a causal relationship between her condition and her employment.⁴ Regarding Dr. Farley's December 12, 1995 report, wherein he checked yes indicating that appellant's condition was causally related to her employment, the Board has held that an opinion on causal relationship, which consists only of a physician checking yes to a medical form report question on whether the claimant's disability was related to the history is of diminished probative value. Without any explanation or rationale for the conclusion reached, Dr. Farley's report is insufficient to establish causal relationship.⁵

Dr. Peterson, the second opinion physician, in a report dated March 8, 1996, reviewed the results of appellant's MRI and x-ray results, performed a comprehensive examination and concluded that appellant's diagnosis of degenerative disc disease was supported by the medical evaluations of record. Dr. Peterson opined, however, that appellant's degenerative disc disease was not caused or contributed to by her employment. The doctor stated that diagnostic testing did not support a herniated C4-5 disc as there was no significant spinal cord indentation. Further, he noted that appellant's condition did not begin at work and that the lifting mechanism, which appellant claimed to have caused her condition, was not clinically associated with the diagnosed condition. Dr. Peterson's opinion is supported by his report on examination of appellant and review of diagnostic testing. The Board finds that Dr. Peterson constitutes the weight of medical opinion.

The medical evidence of record, therefore, does not support, with rationalized medical evidence, a finding that appellant's back condition was causally related to employment.

⁴ *William S. Wright*, 45 ECAB 498 (1994).

⁵ *Lucrecia M. Nielsen*, 42 ECAB 583, 594 (1991).

The decision of the Office of Workers' Compensation Programs dated March 19, 1996 is hereby affirmed.⁶

Dated, Washington, D.C.
January 6, 1999

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁶ Although appellant submitted additional information after the Office's March 19, 1996 decision, this new evidence may not be considered by the Board, as 20 C.F.R. § 501.2(c) limits the Board's review of a case to "the evidence in the case record which was before the Office at the time of its final decision."