

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ERNESTO D. PERALTA and U.S. POSTAL SERVICE,
POST OFFICE, San Diego, Calif.

*Docket No. 97-1479; Submitted on the Record;
Issued January 20, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant met his burden of proof in establishing that he sustained an aggravation of his preexisting back condition due to factors of his federal employment.

The Board has duly reviewed appellant's claim on appeal and finds that he failed to meet his burden of proof in establishing that he sustained an aggravation of his preexisting back condition due to factors of his federal employment.

Appellant, a manual distribution clerk, filed a claim on May 31, 1995 alleging that he had developed increased back pain due to factors of his federal employment. By decision dated April 22, 1996, the Office of Workers' Compensation Programs denied appellant's claim finding that he failed to submit the necessary medical opinion evidence to establish causal relationship between his federal employment and his medical condition. Appellant requested reconsideration and by decision dated January 21, 1997, the Office denied modification of its April 22, 1996 decision.

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. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between

the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.¹

In this case, appellant noted that he sustained a back strain in 1972 in the Navy and that he received compensation for 10 percent disability from the Department of Veterans Affairs. Appellant attributed the exacerbation of his condition to heavy lifting, pushing and pulling required by his current position. He also submitted medical records and reports noting his history of low back pain since 1972.

In a report dated May 18, 1995, Dr. Edwin B. Fuller, a Board-certified orthopedic surgeon, noted that appellant experienced chronic back pain which began when appellant was in the navy. He diagnosed diffuse advanced degenerative joint disease and degenerative disc disease in the lumbar spine with lumbar scoliosis. Dr. Fuller stated that appellant's increased symptoms in his lower back was to be expected as a result of his chronic conditions. This report is not sufficient to meet appellant's burden of proof as Dr. Fuller indicated that appellant's current condition was part of the degenerative process of his preexisting conditions and did not attribute his condition to factors of his federal employment.

Appellant submitted reports from Dr. Chris Turner, a chiropractor, dated June 3, 1994 and November 15, 1993. Dr. Turner did not address the causal relationship between appellant's current condition and his accepted employment duties.

In a report dated July 29, 1996, Dr. Sidney H. Levine, a Board-certified orthopedic surgeon, noted appellant's job requirements and diagnosed degenerative spondylolisthesis L4-5, and discogenic disease. He stated, "From the history provided, it appears the patient's symptoms did arise as a result of repetitive trauma occurring in the course of his employment." Dr. Levine further stated, "It would be reasonable to expect that the patient's work activities of repetitive bending, stooping, lifting and twisting could bring about the changes noted on x-ray and the symptom complex."

In this report, Dr. Levine provided an opinion that appellant's current condition was caused by his accepted employment duties. However, Dr. Levine did not provide medical rationale explaining how appellant's work duties caused his conditions of degenerative spondylolisthesis and discogenic disease. This explanation is necessary given appellant's long-standing history of back conditions and the report from Dr. Fuller indicating that appellant's current condition was a result of the degenerative processes of his condition.

As appellant failed to present the necessary rationalized medical opinion evidence to meet his burden of proof, the Office properly denied his claim.

¹ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

The decisions of the Office of Workers' Compensation Programs dated January 21, 1997 and April 22, 1996 are hereby affirmed.

Dated, Washington, D.C.
January 20, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member