

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CLAUDIA D. HAMILTON and U.S. POSTAL SERVICE,
POST OFFICE, Moss Point, Miss.

*Docket No. 98-166; Submitted on the Record;
Issued July 13, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof to establish that she sustained an injury while in the performance of duty on April 10, 1996.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to meet her burden of proof to establish that she sustained an injury while in the performance of duty on April 10, 1996.

On April 30, 1996 appellant, then a distribution window clerk, filed a traumatic injury claim (Form CA-1) alleging that on April 10, 1996 she pulled a muscle on the right side of her back and arm between her waist and upper shoulder blade while boxing mail. Appellant did not stop work.

On January 30, 1997 appellant filed a claim (Form CA-2a) alleging that she sustained a recurrence of disability on January 27, 1997. Appellant did not stop work.

By letter dated March 18, 1997, the Office of Workers' Compensation Programs advised appellant to submit medical evidence regarding the April 10, 1996 injury and factual evidence addressing whether she had sustained any injuries prior to April 30, 1996.

By decision dated May 16, 1997, the Office found the evidence of record sufficient to establish that appellant experienced the claimed event. The Office, however, found the medical evidence of record insufficient to establish that appellant sustained an injury caused by the April 10, 1996 employment incident. Accordingly, the Office denied appellant's claim.

In a June 3, 1997 letter, appellant requested reconsideration of the Office's decision accompanied by medical evidence. By decision dated July 16, 1997, the Office denied appellant's request for modification based on a merit review of the claim.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitations period of the Act, 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.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁴ In this case, the Office accepted that appellant actually experienced the claimed event. The Board finds that the evidence of record supports this incident.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁵ In the instant case, appellant has submitted no rationalized medical evidence establishing that she sustained a medical condition causally related to the April 10, 1996 employment incident.

In support of her claim, appellant submitted the April 16, 1996 and April 10, 1997 medical treatment notes of a physician whose signature is illegible which addressed appellant's abdomen and back pain. These treatment notes are insufficient to establish appellant's burden because they failed to provide a diagnosis and to address a causal relationship between appellant's conditions and the April 10, 1996 employment incident.

In further support of her claim, appellant submitted the April 30, 1996 medical treatment notes of Dr. William Sidney Robe Ross, a family practitioner, revealing a diagnosis of urinary-tract infection with back spasms and appellant's medical treatment. Additionally, appellant submitted a May 16, 1996 duty status report (Form CA-17) from a physician whose signature is illegible indicating a diagnosis of back pain and appellant's physical restrictions. Dr. Ross' medical treatment notes and the Form CA-17 are insufficient to establish appellant's burden

¹ 5 U.S.C. §§ 8101-8193.

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

³ *Daniel J. Overfield*, 42 ECAB 718 (1991).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ 20 C.F.R. § 10.110(a); *see John M. Tornello*, 35 ECAB 234 (1983).

because they failed to address a causal relationship between appellant's conditions and the April 10, 1996 employment incident.

Appellant also submitted the July 10, 1996 medical report of Dr. C.D. Owens, an internist, indicating medical, family and social histories and his findings on physical examination. He diagnosed chronic anxiety, insomnia, hoarseness secondary to hiatal hernia with gerds and peptic ulcer disease. Dr. Owens' medical report failed to indicate that appellant sustained an injury on April 10, 1996 and to address a causal relationship between appellant's conditions and the April 10, 1996 employment incident.

Further, appellant submitted Dr. Owens' July 23, 1996 disability certificate revealing that she received medical treatment from July 22 through July 26, 1996 and that she was able to return to work on July 29, 1996. His disability certificate is insufficient to establish appellant's burden because it failed to indicate a diagnosis and to discuss whether or how the diagnosed condition was caused by the April 10, 1996 employment incident.⁶

Dr. Owens' July 23 and July 30, 1996 medical treatment notes regarding appellant's wheezing, abdominal pain and anemia failed to indicate a diagnosis and address a causal relationship between appellant's condition and the April 10, 1996 employment incident.

In his August 6, 1996 medical treatment notes, Dr. Owens indicated his discussion with appellant regarding laboratory and x-ray results. He diagnosed chronic hoarseness, chronic normocytic microchromic anemia that was nonregenerative and hair thinning secondary to prilosec. Dr. Owens ruled out vocal chord dysfunction. He indicated appellant's medical treatment. In Dr. Owens' September 30, 1996 medical treatment notes, he stated his findings on physical examination and diagnosed insomnia with fibromyalgia, fatigue due to the above, vasal motor symptoms and a history of ovarian failure. Dr. Owens also indicated appellant's medical treatment. His October 14, 1996 medical treatment notes revealed that appellant was experiencing right hand pain and weakness and her medical treatment. Dr. Owens' January 27, 1997 medical treatment notes indicated his findings on physical examination and a diagnosis of muscle spasms of the upper back secondary to strain from heavy lifting, fibromyalgia and intermittent swelling of the right forearm which appellant stated increased with any use. Dr. Owens ruled out sympathetic dystrophy of the right forearm and noted appellant's medical treatment. His February 4, 1997 treatment notes addressed appellant's back condition. Dr. Owens' medical treatment notes are insufficient to establish appellant's burden because they did not address whether any of appellant's conditions were caused by the April 10, 1996 employment incident.

Appellant also submitted Forms CA-17 dated January 31 and February 4, 1997 from a physician whose signature is illegible revealing that appellant had cervical disc syndrome due the to the April 10, 1996 employment incident and appellant's physical restrictions. These medical reports, however, are insufficient to establish appellant's burden inasmuch as they failed to provide any medical rationale explaining how or why appellant's condition was caused by the April 10, 1996 employment incident.

⁶ *Daniel Deparini*, 44 ECAB 657, 659 (1993).

Appellant submitted Forms CA-17 dated February 11, April 8 and May 8, 1997 of Dr. John J. McCloskey, a Board-certified neurosurgeon, providing her physical restrictions. His medical treatment notes dated February 20 and February 28, 1997 addressed appellant's back condition. Dr. McCloskey's Form CA-17 and treatment notes failed to provide a diagnosis and to address a causal relationship between appellant's condition and the April 10, 1996 employment incident.

Dr. McCloskey's May 6, 1997 work release form indicated that appellant could return to work on May 7, 1997 with restrictions. This disability certificate failed to indicate a diagnosis and to address causal relationship. Therefore, it is insufficient to establish appellant's burden.⁷

Inasmuch as appellant has failed to submit medical evidence establishing that she sustained an injury while in the performance of duty on April 10, 1996, the Board finds that she has failed to satisfy her burden of proof.⁸

The July 16 and May 16, 1997 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, D.C.
July 13, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

⁷ *Id.*

⁸ On appeal appellant has submitted additional medical evidence. However, the Board cannot consider evidence that was not before the Office at the time of the final decision; *see* 20 C.F.R. § 501.2(c)(1).