

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARLENE BEE and DEPARTMENT OF THE AIR FORCE,
MALSTROM AIR FORCE BASE, Mont.

*Docket No. 98-81; Submitted on the Record;
Issued June 22, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained an injury causally related to factors of her federal employment.

On January 28, 1997 appellant, a produce manager, filed an occupational disease claim (Form CA-2) asserting that she sustained an injury to her back and leg causally related to her federal employment. In a narrative statement, appellant attributed her injuries to lifting up to 50 pounds several hours per day, and pulling a pallet jack loaded with up to 3,000 pounds.

By decision dated September 23, 1997, the Office of Workers' Compensation Programs denied the claim on the grounds that appellant had not submitted sufficient medical evidence to establish her claim.

The Board has reviewed the record and finds that appellant has not established an occupational injury 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

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

relationship between the claimed conditions and her 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

In the present case, appellant has identified heavy lifting and pulling a pallet as employment factors contributing to a back or leg condition. Appellant has not, however, submitted sufficient medical evidence on causal relationship between the employment factors and an injury. The record contains an emergency room report dated June 12, 1996 regarding complaints of leg numbness, a treatment note dated June 17, 1996 from a Dr. J. Anderson diagnosing muscle weakness and paresthesias, treatment notes from Dr. T.G. Triehy, an osteopath, from October 1996 through January 1997, a duty status report (Form CA-17) from Dr. Triehy dated January 30, 1997 describing low back and leg pain, and reports of magnetic resonance imaging and other diagnostic studies performed.⁴ None of these reports provides a reasoned medical opinion on causal relationship between the identified employment factors and a diagnosed medical condition.

It is, as noted above, appellant's burden of proof to submit sufficient medical evidence to establish her claim. In the absence of probative medical evidence on causal relationship between a medical condition and the identified employment factors, the Board finds that appellant has not met her burden of proof in this case.⁵

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

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

⁴ There are also reports from a physical therapist. These reports are of no probative value since physical therapists are not physicians under the Federal Employees' Compensation Act; see *Barbara J. Williams*, 40 ECAB 649 (1989); 5 U.S.C. § 8101(2).

⁵ The Board notes that there was medical evidence submitted after the September 23, 1997 Office decision. The jurisdiction of the Board is limited to review of evidence that was before the Office at the time of its final decision, and therefore the Board cannot review any evidence submitted after September 23, 1997 on this appeal. 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated September 23, 1997 is affirmed.

Dated, Washington, D.C.
June 22, 1999

George E. Rivers
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member