

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ARMEL C. ECHELARD and U.S. POSTAL SERVICE,
POST OFFICE, Westwego, La.

*Docket No. 97-851; Submitted on the Record;
Issued March 5, 1999*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof to establish that he sustained an injury to his lower back in the performance of duty.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not sustained his burden of proof to establish that he was injured in the performance of duty.

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 limitation 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 claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989); *see also Daniel R. Hickman*, 34 ECAB 1220 (1983).

³ The Office of Workers' Compensation Programs' regulations clarify that a traumatic injury refers to injury caused by a specific event or incident or series of events or incidents occurring within a single workday or work shift, whereas occupational disease refers to injury produced by employment factors which occur or are present over a period longer than a single workday or shift; *see* 20 C.F.R. §§ 10.5(a)(15), (16).

or condition, for which compensation is claimed; 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.⁴

In this case, appellant filed a claim for compensation alleging that on September 24, 1993 he sustained a back injury while in the performance of duty and that he missed work from that date to January 5, 1994. In support of his claim, appellant submitted medical reports from Dr. Robert E. Ruel, appellant's treating physician and a Board-certified orthopedic surgeon. The only reports prepared after the September 24, 1993 incident were a January 31, 1994 form report, from Dr. Ruel which restricted appellant to light duty because of spondylolisthesis, and a March 15, 1994 medical report, in which Dr. Ruel noted that appellant had work-related spondylolisthesis but failed to establish a causal relationship between the incident and his condition. The Office, on July 18, 1994, denied appellant's claim on the grounds that none of these reports established a causal relationship between appellant's condition and the alleged injury.

Appellant requested an oral hearing and submitted additional medical evidence from Dr. Ruel in support of his request including a March 17, 1995 medical report. In that report the doctor noted that that appellant had been under his care due to a September 24, 1993 back injury sustained while on the job. However, the doctor did not present a rationalized medical opinion establishing a causal relationship between appellant's condition and the alleged September 24, 1993 incident. The hearing representative, in a decision issued on June 28, 1995, and finalized on July 14, 1995, affirmed the Office's July 18, 1994 decision, by finding that the medical evidence that appellant submitted was insufficient to establish appellant's claim because it provided no rationalized medical opinion on causation.

Appellant then filed a request for reconsideration of the hearing representative's decision and submitted a September 13, 1995 medical report, from Dr. Ruel in support of his request. The doctor noted that appellant's spondylolisthesis was congenial; that he had treated appellant on January 31, 1994 for the first time after the September 1993 incident, that appellant stated that he had reported back pain to Dr. Young on November 30, 1994, and that his back condition was causally related to the September 24, 1993 injury. However, the record does not contain a medical report from Dr. Young noting back pain on or about November 30, 1994, nor did Dr. Ruel provide a rationalized medical opinion establishing a causal relationship between the September 24, 1993 incident and appellant's condition. The Office properly determined that this report was insufficient to warrant a modification of the prior decision because it failed to establish a causal relationship between the alleged incident and appellant's condition. Since there is no rationalized medical evidence in the record explaining a causal relationship between appellant's back condition and the September 24, 1993 incident, appellant failed to establish that he had sustained an injury in the performance of duty on September 24, 1993.

The decisions of the Office of Workers' Compensation Programs dated January 2 and November 20, 1996 are affirmed.

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

Dated, Washington, D.C.
March 5, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member