

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HAROLD GASKINS and U.S. POSTAL SERVICE,
PACKAGE & DELIVERY CENTER, Merrifield, Va.

*Docket No. 97-1901; Submitted on the Record;
Issued March 8, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden of proof in establishing that he sustained a back condition due to his federal employment.

The Board has duly reviewed the case on appeal and finds that appellant has not met his burden of proof in establishing that he sustained a back condition due to his federal employment.

Appellant filed a claim on May 17, 1996 alleging that he injured his back in the performance of duty on April 25, 1996. The Office of Workers' Compensation Programs denied appellant's claim by decision dated September 12, 1996 finding that appellant failed to submit sufficient medical evidence to establish a causal relationship between his diagnosed condition and his employment incident. Appellant requested reconsideration on November 22, 1996 and by decision dated March 3, 1997, the Office denied modification of its September 12, 1996 decision.

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.¹ 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.² Rationalized medical opinion evidence is

¹ *Elaine Pendleton*, 40 ECAB 1143 (1989).

² *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.³

In support of his claim for a back injury, appellant submitted a series of reports from Dr. Jeffery M. Lengel, a Board-certified family practitioner. Dr. Lengel initially examined appellant on April 29, 1996 and diagnosed C5 radiculopathy. Dr. Lengel's notes and reports did not contain a history of injury nor an opinion on the causal relationship between appellant's diagnosed condition and his accepted employment incident. As these reports lack the necessary history of injury and medical opinion evidence, the reports are insufficient to meet appellant's burden of proof.

Dr. Lengel referred appellant to Dr. Robert L. Martuza, a Board-certified neurosurgeon. In his May 16 and June 17, 1996 reports, Dr. Martuza noted that appellant felt a "pop-like" sensation in his back while lifting cases in the performance of duty in late April. He diagnosed cervical radiculopathy. While these reports note appellant's history of lifting in the duty, Dr. Martuza did not provide an opinion on the causal relationship between this incident and appellant's diagnosed condition. Without the necessary medical opinion evidence and supporting rationale, Dr. Martuza's reports are insufficient to meet appellant's burden of proof.

As appellant failed to submit the necessary supportive medical evidence, he failed to meet his burden of proof and the Office properly denied his claim.

³ *James Mack*, 43 ECAB 321 (1991).

The decisions of the Office of Workers' Compensation Programs dated March 3, 1997 and September 12, 1996 are hereby affirmed.

Dated, Washington, D.C.
March 8, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member