U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DENNIS THOMAS and U.S. POSTAL SERVICE,
POST OFFICE, St. Charles, Mo.

Docket No. 97-2041; Submitted on the Record;
Issued March 22, 1999

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that he sustained an injury in the performance of duty on November 15, 1996.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty on November 15, 1996.

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 [2] and that an injury was sustained in the performance of duty.[3] These are essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.[5] Second, the

---

[1] 5 U.S.C. §§ 8101-8193.

[2] *Joe D. Cameron*, 41 ECAB 153 (1989).

[3] *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[4] *Delores C. Ellyet*, 41 ECAB 992 (1990).

[5] *John J. Carlone*, 41 ECAB 354 (1989).

employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[6]

Appellant, a mail carrier, filed a claim for a traumatic injury to his neck and lower back which occurred on November 15, 1996 when he bent down to pick up a pouch while carrying mail on his shoulder. By decision dated January 30, 1997, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that he did not establish an injury in the performance of duty.

There is no dispute that appellant is a federal employee, that he timely filed his claim for compensation benefits and that the incident occurred as alleged. The medical evidence, however, is insufficient to establish that an injury resulted from the November 15, 1996 incident.

In support of his claim, appellant submitted a chart note from Dr. John J. O'Brien, a Board-certified internist and his attending physician, dated November 18, 1996. Dr. O'Brien stated that appellant related that he "was carrying a heavy mail sack the other day when he felt a sudden pop in the left low[er] back when bending over." The physician diagnosed a recurrence of chronic low back spasm. Dr. O'Brien, however, does not discuss the cause of the diagnosed condition and thus his report is insufficient to meet appellant's burden of proof.

In an authorization for examination and/or treatment (Form CA-16) completed on November 29, 1996, Dr. O'Brien diagnosed a lumbar strain and checked a "yes" box indicating that the condition was aggravated by employment. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value without further detail and explanation.[7] As Dr. O'Brien did not provide any rationale supporting his conclusion, his opinion is insufficient to establish causal relationship.[8]

In a fitness-for-duty examination dated December 26, 1996, Dr. Donald H. Branchato discussed appellant's history of neck and back pain and found that he had no objective evidence of disability and could resume his usual activities.

In a form report dated January 8, 1997, Dr. O'Brien diagnosed acute lumbar strain and checked "yes" that the condition was aggravated by an employment activity. As discussed above, a medical report in which a physician checks a box on a form "yes," with regard to whether a condition is employment related is, without supporting rationale, of diminished probative value. Appellant's burden of proof includes the necessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound medical reasoning. As Dr. O'Brien did nothing more than check "yes" to a form question, his opinion on causal relationship is insufficient to discharge appellant's burden of proof.

---

[6] *Id.*

[7] *Alberta S. Williamson*, 47 ECAB 569 (1996).

[8] *Lucrecia M. Nielson*, 41 ECAB 583 (1991).

Appellant further submitted numerous notes from Dr. O'Brien, in which he found appellant disabled from work; however, these disability certificates contain no causation finding and thus are of little probative value. The remaining evidence of record consists of office visit notes from Dr. O'Brien predating the November 15, 1996 employment incident and thus are not relevant to the issue of whether appellant sustained an injury in the performance of duty on that date.

The Office advised appellant of the type of medical evidence needed to establish his claim, but he did not provide sufficient evidence. The record contains no medical opinion explaining why the November 15, 1996 employment incident caused or aggravated a diagnosed medical condition. Consequently, appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty.[9]

The decision of the Office of Workers' Compensation Programs dated January 30, 1997 is hereby affirmed.

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

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

[9] The Board notes that appellant submitted evidence subsequent to the Office's January 30, 1997 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c).