

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DONALD R. JOHNSON and U.S. POSTAL SERVICE,  
POST OFFICE, St. Paul, MN

*Docket No. 98-975; Submitted on the Record;  
Issued November 23, 1999*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden of proof to establish that he sustained a recurrence of disability beginning May 24, 1996 causally related to his April 27, 1994 employment injury.

On May 31, 1994 appellant, then a 38-year-old postal distribution clerk, filed a claim of occupational disease stating that the repetitive motions of tossing mail into sacks and the moving of sacks weighing up to 70 pounds, had caused him to experience pain in his shoulders and right elbow and hand beginning around April 27, 1994. Appellant stopped work May 13, 1994 and returned to his regular duty on May 17, 1994.

The Office of Workers' Compensation Programs accepted appellant's claim for cervical strain.

On May 24, 1996 appellant filed a recurrence of disability claim alleging that his condition and disability as of May 23, 1996 were causally related to his April 27, 1994 employment injury. Appellant stated that "I have been lifting [unreadable] at call chutes and told by supervisor Arlene Krebs to get lights out in slides. It is related because I feel the same pain in the same area." Appellant stopped working on May 24, 1996 and returned to work the following day.

In support of his claim, appellant submitted a May 24, 1996 duty status report from Dr. Stephen C. Riendl, a Board-certified internist from HealthPartners, who diagnosed cervical strain.

By letter dated July 1, 1996, the Office advised appellant of the deficiencies in the claim. The Office requested appellant to submit rationalized medical evidence addressing whether his present condition was causally related to his April 27, 1994 injury.

Appellant submitted a May 24, 1996 medical chart note from the Group Health Clinic which diagnosed cervical strain. It was noted that appellant had a previous injury related to this several years prior and that he was treated with physical therapy and ibuprofen. It was also noted that appellant was having personal stress problems outside of work. There is no indication that the current medical problem was related to the original injury.

Also submitted was a July 21, 1995 medical chart note from the Group Health Clinic which indicated that appellant suffered a minor back claim on July 20, 1995. Appellant indicated that he felt a pop in his upper back while at work on July 20, 1995. Appellant stated that it was different from his previous neck problem. He was placed on restrictions of limited lifting of 20 pounds and no over the shoulder lifting for 3 to 4 weeks. The note fails to indicate a cervical strain problem. Appellant returned to regular duty in three to four weeks.

By decision dated August 5, 1996, the Office rejected appellant's claim, finding that the evidence of record failed to establish causal relationship between the April 27, 1994 employment injury and appellant's claimed recurrence of disability.

Subsequent to the Office's decision, appellant submitted a factual statement wherein he indicated that he was raking parcels after being told by his supervisor to do so. Appellant also stated that his duties were "somewhat the same except for taking breaks from the routine. Limited bending."

A May 29, 1996 report from a physical therapist indicated that appellant had a two-year history of intermittent neck, upper back and shoulder pain. It has been worse the last six months. His assessment: Minimal cervical dysfunction all planes of motion except flexion which was normal. A previous computerized tomography scan tested positive for two bulging discs. Work environment was stressful with repetitive lifting and with his neck in a flexed posture.

In an August 19, 1996 medical report, Dr. Riendl stated that appellant has a history of cervical strain.

"He was injured in April 1994 initially while raking parcels for the [employing establishment]. Appellant's recurrent injury of May 24, 1996 occurred with the identical motion and with identical symptoms and physical examination as his previous injury. I neglected to document this on my note on that day.... I apologize for my lack of detailed records from the May 24, 1996 incident."

Appellant requested a hearing an oral hearing which was held on June 12, 1997. By decision dated October 27, 1997 and finalized on October 29, 1997, the Office hearing representative affirmed the denial of benefits on the grounds that the medical evidence of record failed to establish the requisite, causal relation. The hearing representative also found that there were inconsistencies in the factual evidence as to what exactly occurred on the date of the alleged recurrence.

The Board finds that appellant did not meet his burden of proof in establishing that he sustained a recurrence of disability beginning May 24, 1996 causally related to his April 27, 1994 employment injury.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the recurrence of a disabling condition for which he seeks compensation was causally related to his employment injury.<sup>1</sup> As part of such burden of proof, rationalized medical evidence showing causal relation must be submitted.<sup>2</sup> The fact that a condition manifests itself during a period of employment does not raise an inference of causal relationship between the two.<sup>3</sup>

In this case, appellant has not submitted any medical evidence from a physician who, on the basis of a complete, accurate and factual medical history, has concluded that he has any condition or disability causally related to his April 27, 1994 employment injury. The medical evidence submitted in support of appellant's claim consists of a May 29, 1996 report from a physical therapist and reports and chart notes from Dr. Riendl. The Board notes that a physical therapist is not a physician for the purposes of the Federal Employees' Compensation Act, these notes do not constitute medical evidence and are insufficient to establish appellant's claim.<sup>4</sup> Although Dr. Riendl provides a diagnosis of cervical strain and notes that appellant's "recurrent injury of May 24, 1996 occurred with the identical motion and with identical symptoms and physical exam[ination] as his previous injury," there is no medical rationale explaining how appellant's current condition of cervical strain was related to his original injury. This explanation is necessary given appellant's history of cervical strain. Thus, Dr. Riendl's report is insufficient to meet appellant's burden that his current cervical strain was caused by his April 27, 1994 injury.

Appellant was advised of the deficiencies in the claim and had failed to provide the requested information. This included a request that appellant submit rationalized medical evidence addressing how his current condition would be related to his April 27, 1994 work injury. It is not enough for appellant to allege a causal relationship between his work and his stated condition; evidence of the nature of any disabling condition and its relationship to a particular employee's work can only be given by a physician fully acquainted with the relevant facts and circumstances of the employment injury and the medical findings. Thus, as a lay person, appellant's opinion that his current back condition is causally related to his April 27, 1994 employment injury has no probative value on the medical issue.<sup>5</sup> Appellant, therefore, has not provided probative medical evidence sufficient to establish that he sustained a recurrence of disability causally related to his April 27, 1994 employment injury.<sup>6</sup>

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<sup>1</sup> *Barbara J. Williams*, 40 ECAB 649 (1989); *James A. Long*, 40 ECAB 538 (1989).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *See Barbara J. Williams*, 40 ECAB 649 (1989); *see also Jane A. White*, 34 ECAB 515 (1983); 5 U.S.C. § 8101(2).

<sup>5</sup> *Birger Areskog*, 30 ECAB 571 (1979); *see also James A. Long*, *supra* note 1.

<sup>6</sup> NOTE: The Board notes that although the Office hearing representative noted inconsistencies in the factual evidence as to how the method of injury, this discussion was unnecessary given the fact that the medical evidence was insufficient to establish appellant's burden of proof. The Board additionally notes that a *Hedman* analysis does

The decision of the Office of Workers' Compensation Programs dated October 27, 1997 and finalized on October 29, 1997 is hereby affirmed.

Dated, Washington, D.C.  
November 23, 1999

George E. Rivers  
Member

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

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not apply in this case as appellant had returned to full-time regular duties during July 1994.