

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CATHY TIPTON and U.S. POSTAL SERVICE,
POST OFFICE, Loveland, OH

*Docket No. 98-1209; Submitted on the Record;
Issued November 9, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof in establishing that her back, right leg or right arm conditions were causally related to factors of her employment.

The case has been on appeal previously.¹ In an October 7, 1996 decision, the Board affirmed the decision of the hearing representative of the Office of Workers' Compensation Programs who found that the medical evidence submitted by appellant was insufficient to establish that the December 4, 1990 automobile accident caused her back pain and numbness in her right arm and leg or that these conditions were aggravated by casing mail, and by prolonged standing, bending, driving and reaching to deliver mail.

In a February 20, 1997 letter, appellant's attorney asked about appellant's eligibility for a schedule award. In a February 26, 1997 letter, the Office indicated that, since appellant's claim had never been accepted, she was not entitled to any benefits under the Federal Employees' Compensation Act.

In a September 29, 1997 letter, appellant's attorney requested reconsideration. He submitted in support of the request a September 17, 1997 report from Dr. Alfred Kahn, III, a Board-certified orthopedic surgeon, who indicated that a magnetic resonance imaging scan showed appellant had a problem at C4-5 and C5-6. He stated that appellant was not a candidate for surgery until she stopped using nicotine in any form. In a January 9, 1998 merit decision, the Office denied appellant's request for modification.

The Board finds that appellant has not met her burden of proof in establishing that her conditions were causally related to factors of her employment.

¹ Docket No. 95-84 (issued October 7, 1996).

A person who claims benefits under the Act² has the burden of establishing the essential elements of her claim. Appellant has the burden of establishing by reliable, probative and substantial evidence that her medical condition was causally related to a specific employment incident or to specific conditions of employment.³ As part of such burden of proof, rationalized medical opinion evidence showing causal relation must be submitted.⁴ The mere fact that a condition manifests itself or worsens during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁵ Such a relationship must be shown by rationalized medical evidence of causal relation based upon a specific and accurate history of employment incidents or conditions which are alleged to have caused or exacerbated a disability.⁶

The Office and the Board had previously found that the medical evidence submitted by appellant did not have sufficient medical rationale to establish that her claimed conditions were causally related to her employment. In this appeal, appellant has presented only one additional medical report. Dr. Kahn indicated that appellant had a C4-5 and C5-6 problem. However, Dr. Kahn gave no precise diagnosis of the conditions he found, gave no opinion on whether these conditions were causally related to appellant's employment and gave no rationale on how these conditions would be related to her employment. This report therefore has almost no probative value and is insufficient to sustain appellant's burden of proof.

The decision of the Office of Workers' Compensation Programs, dated January 9, 1998, is hereby affirmed.

Dated, Washington, D.C.
November 9, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

² 5 U.S.C. §§ 8101-8193.

³ *Margaret A. Donnelly*, 15 ECAB 40, 43 (1963).

⁴ *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

⁵ *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

⁶ *Edgar L. Colley*, 34 ECAB 1691, 1696 (1983).