

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ARTHUR J. ROULEAU and U.S. POSTAL SERVICE,
POST OFFICE, Portland, ME

*Docket No. 98-1244; Submitted on the Record;
Issued November 23, 1999*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a C6-7 herniated disc in the performance of duty, causally related to factors of his federal employment.

On August 19, 1997 appellant, then a 52-year-old rural carrier, filed a Form CA-2, claim for occupational injury, alleging that he had pain starting on July 16, 1997 and he described his condition as "herniated disc." The postmaster noted that, although appellant stated that he had pain in his arm on July 16, 1997, he did not indicate that it began on duty and he failed to mention a work-related injury. In an accompanying statement appellant claimed that, on July 16, 1997, "while reaching in the back seat I felt a sharp pain in my back for a moment, but I did n[o]t associate it to my shoulder until after talking to the doctor. The shoulder was giving me the trouble, not my back, so I thought that was my injury." Appellant stated that his operating neurosurgeon said that the disc was probably caused by repetitive reaching, twisting and turning over time.

By letter dated September 2, 1997, the Office of Workers' Compensation Programs requested further information including a physician's rationalized opinion detailing a causal relationship with factors of appellant's employment.

In a response dated September 7, 1997, appellant stated:

"The event that caused the problem was when I was in my seat belt and was reaching into the back seat for a package. The seat belt confined my movement from the waist.

"Stretching to reach mailboxes about 250 times as well as in the back seat to get my strongbox or packages 20 to 30 times. Packing the mail and loading my car, I use six or more trays which weigh about 30 pounds each, then packages and bundles of flyers on Friday and Saturday.

“The disc is located between C6-7, since this is located in my neck, maybe casing my mail contributed in some way. Moving to the left or right case and moving my head up and down and left and right for about two to two and a half hours....

“During route inspection, with the postmaster in the back seat behind the driver’s seat, about one third into my route I was reaching for a small package for one of my customers. While searching through my small packages to find the correct one I felt a sharp pain in my neck, then it was gone. A growing pain in my shoulder started and as the day continued the pain increased.”

A July 28, 1997 narrative report, from Dr. Kerry T. White, a Board-certified neurosurgeon, noted as history that appellant “had the gradual and spontaneous onset of severe pain in his right shoulder nearly two weeks ago. The pain then steadily intensified and began to radiate more distally along his right upper extremity.... A magnetic resonance imaging (MRI) scan identified a large correlated disc herniation at C6-7 on the right.” Surgery was recommended and the MRI report was included. An August 26, 1997 postoperative office visit note did not address causation, but noted that appellant was healing well from his August 7, 1997 discectomy and interbody fusion.

Appellant also submitted a September 5, 1997 Form CA-17, duty status report from Dr. White which noted the date of injury as July 16, 1997, which described how the injury occurred as “repetitive motions,” and which noted the body part affected as “neck and back.”

On September 11, 1997 appellant filed a claim for recurrence of disability commencing September 10, 1997, causally related to his July 16, 1997 injury.¹

By decision dated December 12, 1997, the Office rejected appellant’s claim finding that causal relationship had not been established. The Office found that the evidence of record was insufficient to establish a causal relation between appellant’s employment and the C6-7 herniated disc.

The Board finds that appellant has failed to establish that he sustained a C6-7 herniated disc in the performance of duty, causally related to factors of his federal employment.

A person who claims benefits under the Federal Employees’ Compensation Act² has the burden of establishing the essential elements of his claim. Appellant has the burden of establishing by reliable, probative and substantial evidence that his 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

¹ As this claim has not been adjudicated by the Office it is not now before the Board upon this appeal; *see* 20 C.F.R. § 501.2(c).

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).

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

In this case, no such rationalized medical evidence was submitted to the record.

Although appellant completed an occupational illness claim form his version of the incident(s) of injury appear to more closely fit the definition of a traumatic injury.⁷ The Office has accepted that the incidents of July 16, 1997 occurred as alleged, but found that no medical evidence was submitted which supported causal relationship of appellant's herniated C6-7 disc to identifiable employment factors.

In his July 28, 1997 report, Dr. White gave a history of "a gradual and spontaneous onset" two weeks prior and did not relate the occurrence of appellant's symptomatology to specific employment activities or to factors of his employment. Consequently, this report does not support causal relation with appellant's employment. Dr. White's postoperative note did not even address causation and hence also did not support causal relation. Finally, Dr. White's September 5, 1997 form report, related appellant's "neck and back" conditions to "repetitive motions" on July 16, 1997 without any specifics as to what and which repetitive motions on July 16, 1997 caused or contributed to appellant's C6-7 herniated disc and without any pathophysiological explanation as to how and why. Further, Dr. White did not explain the different causation noted in the form report from the gradual and spontaneous onset noted in his earlier, more contemporaneous July 28, 1997 narrative report. Therefore, Dr. White's September 5, 1997 report is insufficient to establish appellant's injury claim.

As no further rationalized medical evidence was submitted which established a causal relationship of appellant's C6-7 herniated disc with any particular factors of appellant's employment on July 16, 1997 or at any other time, appellant has failed to meet his burden of proof to establish his claim.

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

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

⁷ 20 C.F.R. § 10.5(a)(15) and (16) defines traumatic injury as a wound or other condition caused by an external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function affected, which must be caused by a specific event or incident or series or events or incidents within a single workday or work shift. Occupational disease or illness is defined as a condition produced in the work environment over a period longer than a single workday or work shift.

Accordingly, the decision of the Office of Workers' Compensation Programs dated December 12, 1997 is hereby affirmed.

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

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member