

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HOWARD E. VAN VLEET and DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF PRISONS, MAXIMUM SECURITY FACILITY,
Florence, CO

*Docket No. 98-1857; Submitted on the Record;
Issued November 29, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained an injury in the performance of duty.

On January 13, 1998 appellant, then a 37-year-old correctional officer, filed a claim for compensation, stating that he injured his back and right knee on January 5, 1998 while carrying an ice bucket. In an April 23, 1998 decision, the Office of Workers' Compensation Programs denied appellant's claim for compensation on the grounds that he had not submitted rationalized medical evidence establishing a causal relationship between the January 5, 1998 incident and his diagnosed back condition.

The Board finds that appellant has not met his burden of proof in establishing that he sustained a back condition that was causally related to the January 5, 1998 incident.

A person who claims benefits under the Federal Employees' Compensation Act¹ 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.² As part of such burden of proof, rationalized medical opinion evidence showing causal relation must be submitted.³ 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.⁴ Such a relationship must be shown by rationalized medical evidence of causal

¹ 5 U.S.C. §§ 8101-8193.

² *Margaret A. Donnelly*, 15 ECAB 40, 43 (1963).

³ *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

⁴ *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

relation based upon a specific and accurate history of employment incidents or conditions which are alleged to have caused or exacerbated a disability.⁵

Appellant submitted in support of his claim a set of office notes from Dr. Gary Ritchie, a Board-certified family practitioner, for the period September 12, 1997 through January 8, 1998. Dr. Ritchie noted that appellant had a history of back pain arising from a fall at work in February 1996. He referred to a May 23, 1996 magnetic resonance imaging scan which showed desiccation of the L5-S1 disc. In the January 8, 1998 note, Dr. Ritchie reported that appellant complained of severe back pain with radiation down the right leg after lifting an ice bucket on December 4, 1997. He noted that appellant related he had constant, aching pain with radiation down the right leg. Dr. Ritchie reported appellant had subjective exquisite pain on palpation of the paralumbar region but commented that he could not perform a complete examination because appellant was unable to get on the examination table. Dr. Ritchie did not give an opinion on whether appellant's condition was related to his reported employment injury from carrying an ice bucket.

In a January 12, 1998 report, Dr. John T. Mahan, an orthopedic surgeon, noted that appellant had a history dating back to February 1996 when he was carrying a bucket with a coworker and the coworker let go of the bucket, causing appellant's back to jerk. Dr. Mahan did not give a history of the January 5, 1998 incident. He reported that superficial touch evoked severe pain in appellant's lumbosacral area. He noted that appellant had questionably positive right straight leg raising test. He commented that the sensory examination was decreased globally in the entire right leg. He diagnosed degenerative L5-S1 disc disease, discogenic severe low back pain, overlying spasm and possible facet arthropathy at L5-S1. Dr. Mahan also did not discuss the cause of appellant's back pain and did not even mention appellant's history of injury on January 5, 1998. Appellant therefore did not submit any medical evidence which specifically related his back condition and any resulting disability to the January 5, 1998 incident. Appellant, therefore, has not met his burden of proof.⁶

⁵ *Edgar L. Colley*, 34 ECAB 1691, 1696 (1983).

⁶ On appeal appellant submitted medical evidence that had not been submitted previously. The scope of the Board's review is limited to the evidence that was before the Office at the time it issued its final decision. 20 C.F.R. § 501.2(c). The Board, therefore, cannot consider the evidence that was submitted on appeal. Appellant may submit the evidence to the Office and request reconsideration.

The decision of the Office of Workers' Compensation Programs, dated April 23, 1998, is hereby affirmed.

Dated, Washington, D.C.
November 29, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member