

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ABBY J. SIEGEL and DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE, YOSEMITE NATIONAL PARK, El Portal, CA

*Docket No. 98-387; Submitted on the Record;
Issued September 16, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
A. PETER KANJORSKI

The issue is whether appellant established that she sustained a back injury causally related to factors of her federal employment.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not established that she sustained an employment-related injury.

The facts in this case indicate that on September 9, 1996 appellant, then a 36-year-old maintenance worker, filed a claim contending that on August 27, 1996 she suffered a severe lumbar sprain and leg numbness which were caused by scrubbing floors on her hands and knees. She stopped work on September 7, 1996. By letter dated November 14, 1996, the Office of Workers' Compensation Programs informed appellant of the type evidence needed to support her claim, to include a detailed narrative report from her physician including a history of injury, diagnosis and an opinion on the relationship of the diagnosed condition to employment activity. Following further development, by decision dated May 9, 1997, the Office denied the claim on the grounds that the medical evidence of record was insufficient to establish that her condition was employment related. The instant appeal follows.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim² including the fact that the individual is an "employee of the United States" within the meaning of the Act,³ that the claim was timely filed within the applicable time limitation period of the Act,⁴ that an injury was

¹ 5 U.S.C. §§ 8101-8193.

² See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.110.

³ See *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁵ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶ However, an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong and persuasive evidence.⁷

Causal relationship is a medical issue⁸ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹ Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰

The medical evidence relevant to the cause of appellant's condition¹¹ consists of a December 4, 1996 report from appellant's treating Board-certified internist, Dr. Robert F. Casanas who advised:

"We are not entertaining a firm 'diagnosis' or etiology at this point. This is the reason for the neurology referral. Once we are certain of the etiology we can assess [whether] the diagnosis is related to work. This is also the reason for the request for referral to a physiatrist.

"Again, we are not certain whether we are dealing with a metabolically or idiopathic deranged nerve pathology (neuropathy) or a mechanical nerve problem (*i.e.*, the lumbar structures pinching the nerve due to overuse or disuse at work).

⁵ See *Melinda C. Epperly*, 45 ECAB 196 (1993).

⁶ See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ See *Robert A. Gregory*, 40 ECAB 478 (1989).

⁸ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁹ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, *supra* note 6.

¹⁰ *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

¹¹ The medical evidence also includes a number of reports from Dr. Casanas that do not discuss the cause of appellant's condition, essentially normal x-ray and magnetic resonance imaging of the lumbar spine and a November 5, 1996 report in which Dr. P. James Nugent, an orthopedic surgeon, diagnosed subjective complaints of back pain with radiculopathy and degenerative disc disease of the lumbar spine.

“We would like to pursue our original request for a neurologist and physiatrist referral to address both etiologies (and hence to assess if it is industry related or not), long-term prognosis and rehabilitation.”

The Board finds that, while appellant established that the August 27, 1996 employment incident occurred in the performance of duty, she has not established that the incident resulted in an injury as the record contains no rationalized medical evidence that relates appellant’s condition to the employment incident. On appeal, she contends that she did not receive the November 19, 1996 report in which the Office requested that she furnish a rationalized medical report. The record, however, indicates that in a letter dated November 25, 1996, appellant states, “I am writing to you at your request to provide you with additional information due to my traumatic injury on August 27, 1996.” Furthermore, under the mailbox rule it is presumed, absent evidence to the contrary, that a notice mailed to an individual in the ordinary course of business was received by that individual.¹²

The decision of the Office of Workers’ Compensation Programs dated May 9, 1997 is hereby affirmed.

Dated, Washington, D.C.
September 16, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

A. Peter Kanjorski
Alternate Member

¹² A.C. *Clyburn*, 47 ECAB 153 (1995).