

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KAREN Y. WATSON and U.S. POSTAL SERVICE,
CHICAGO BULK MAIL CENTER, Forest Park, IL

*Docket No. 98-2253; Submitted on the Record;
Issued April 5, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant met her burden of proof to establish that she sustained a back condition in the performance of duty causally related to factors of her federal employment.

The Board has duly reviewed the case record and concludes that appellant did not meet her burden of proof to establish that she sustained a back condition in the performance of duty causally related to factors of her employment.

An award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship.¹ Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that she sustained an injury in the performance of duty and that her disability was caused or aggravated by her employment.² As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.³ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁴ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.⁵

¹ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

² *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

³ *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁴ *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

⁵ *Joseph T. Gulla*, *supra* note 3.

On February 20, 1998 appellant, then a 35-year-old mailhandler, filed a claim for compensation benefits alleging that on January 23, 1998 she sustained injuries to her back, buttocks and legs, which she attributed to lifting sacks or pulling a bulk mail container. On the reverse of the claim form, appellant's supervisor related that on February 4, 1998 appellant had stated that a bad mattress at home was causing her back pain.

By decision dated May 28, 1998, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record failed to establish that her claimed back condition was caused or aggravated by her employment.

In a statement dated February 26, 1998, appellant related that when she awoke on Saturday, January 24, 1998 her back was hurting and continued to get worse each day until she saw a physician. She stated that she told the physician that her job included unloading trucks and pulling containers and he took x-rays, which showed an acute lumbar sprain possibly brought on by heavy lifting and pulling of heavy objects. In a statement dated May 1, 1998, appellant indicated that she did not know the cause of her back condition until she had x-rays taken and her doctor concluded that the cause of her condition was heavy lifting or the pulling of heavy containers at work. She stated that she told the employing establishment that she did not know for sure what was causing her condition and possibly she needed a new mattress but, when she obtained x-rays and questioned the cause of her condition, her doctor told her the condition was possibly due to the type of work she performed.

The employing establishment controverted appellant's claim. In a letter dated March 5, 1998, an employing establishment manager stated that on February 11, 1998 appellant telephoned and stated that her injury was not job related and was of a personal nature. In a letter dated March 27, 1998, an employing establishment plant manager stated that appellant stopped work on February 4, 1998 and advised the nurse and the employing establishment injury compensation specialist that her condition was not work related but was due to sleeping on an old mattress. He related that appellant had an attendance problem and was working on a "last chance basis" which provided that any unscheduled absences in excess of four would be grounds for immediate dismissal and noted that on February 4, 1998 the date of her work stoppage, appellant had three unscheduled absences.

Appellant submitted medical evidence in support of her claim.

Notes dated February 4, 1998, from the employing establishment medical clinic indicated that appellant was complaining of back pain and that she stated that this condition was not work related. The notes reflect that when appellant asked to be allowed to go home, she was told that she needed to request leave from her supervisor. The notes related that appellant then asked, "if it was job related could [she] be excused?" and she was told "no," that she would be referred for injury compensation processing at which point appellant indicated that she would return to work. As appellant indicated that her back condition was not work related, these medical notes do not support her claim for a work-related back injury.

In a disability certificate dated February 9, 1998, an unidentified physician indicated that appellant was totally disabled from February 4 through 12, 1998 due to acute lumbar sprain. However, no cause was given for the condition and, therefore, this certificate does not establish

that appellant sustained a back condition on January 23, 1998 causally related to factors of her employment.

In a report dated March 4, 1998, Dr. Prem N. Pahwa, an orthopedic surgeon, provided a history of appellant's condition and related appellant's statement that on January 24, 1998 she was getting up from bed and felt pain in her lower back. He stated that an x-ray taken on February 5, 1998 was essentially normal and a magnetic resonance imaging scan performed on March 4, 1998 revealed degenerative disease at L4-5, L5-S1. Dr. Pahwa stated:

“[Appellant] is grossly exaggerated her symptoms, but she does have back pain which I believe.”

However, Dr. Pahwa did not provide an opinion as to the cause of appellant's condition and, therefore, his report does not establish that appellant's back condition was work related.

In a form report dated March 24, 1998, Dr. Rajiv R. Hede, an internist, noted that he first examined appellant on January 26, 1998 and that appellant gave a history of back pain while lifting at work. He diagnosed degenerative disc disease of the spine with prolapsed intervertebral disc at L4-5 and L5-S1. In answer to the form report question as to whether the condition was caused or aggravated by appellant's employment, Dr. Hede wrote, “[Patient] developed symptoms while lifting at work.” However, he merely related appellant's statement that the condition developed at work. Dr. Hede did not provide a rationalized medical explanation as to how appellant's degenerative back condition was related to her employment. Furthermore, he did not appear to be aware that appellant had initially attributed her condition to sleeping on an old mattress. Due to these deficiencies, this report does not discharge appellant's burden of proof.

In a report dated May 8, 1998, Dr. Hede related that he first saw appellant on January 26, 1998 with back pain after lifting at work. He noted that appellant's job involved pulling heavy containers and lifting heavy mailbags. Dr. Hede stated his opinion that the most likely cause of appellant's back sprain was the type of job that she performed. However, he provided insufficient medical rationale explaining how appellant's back sprain was causally related to her employment. Dr. Hede also did not explain why he diagnosed a back sprain in this report but had diagnosed degenerative disc disease in his March 24, 1998 report. Furthermore, he did not seem to be aware that appellant had initially told her employer that the condition was caused by sleeping on an old mattress. Therefore, this report is not sufficient to establish that appellant's claimed back condition was caused or aggravated by her employment.

In a letter dated May 19, 1998, Dr. Hede related that appellant was found to have degenerative disc disease with prolapses of the disc at L4-5 and L5-S1 and that her job was most likely aggravating her back condition. However, he provided insufficient medical rationale explaining how appellant's job had aggravated her degenerative back condition. Such explanation is particularly important in light of the fact that appellant had initially advised her supervisor, an employing establishment nurse and an employing establishment injury compensation specialist on February 4 and 11, 1998, that her condition was due to sleeping on an old mattress. Therefore, this report is not sufficient to establish that she sustained a work-related back condition on January 23, 1998.

The decision of the Office of Workers' Compensation Programs dated May 28, 1998 is affirmed.

Dated, Washington, D.C.
April 5, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member