

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RECARDO M. EVANS and U.S. POSTAL SERVICE,
POST OFFICE, Washington, DC

*Docket No. 99-1687; Submitted on the Record;
Issued August 15, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

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

On September 19, 1998 appellant, then a 33-year-old window/distribution clerk, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he sustained a herniated disc causally related to employment factors. Also on appellant's CA-2 form he indicated that he first became aware of his illness or disease on November 28, 1995 and that it was aggravated by his employment on April 1, 1998. On the reverse of his CA-2 form appellant left blank the date that he first received medical attention, but indicated that he was seen by Dr. Willie J. Banks, Jr., Board-certified in orthopedic surgery at Orthopedic Surgery Service, Washington Veterans Administration Medical Center, in Washington, D.C. Appellant indicated that he did not stop work but was placed on light duty. In explaining why he came to the realization that his condition was related to his employment appellant stated that he "[r]eceived surgery on left knee [in] February 1998. Returned to employment [on] March 20, 1998. Returned to normal duties due to insufficient leave balance [and] aggravated [my] condition upon return to duty." Also on appellant's CA-2 form he indicated that he notified his supervisor of his condition on September 15, 1998.

Mr. Roger K. Ballard, appellant's supervisor, stated:

"On September 15, 1998 [appellant] reported that he believed his back was hurting from stress he applied to it while recovering from knee surgery in February 1998. Knee surgery was related to his Desert Storm activity. He went to Veterans Administration Medical Center on September 10, 1998 and was diagnosed with a herniated disc (spine). At no time did [appellant] injure himself at work. [Appellant] never complained about his job functions. As he stated on [his] CA-2 [form], he returned to work on March 20, 1998 because he had insufficient leave. If he aggravated hi[m]self at work I was never aware of it."

By letter dated October 16, 1998, the Office of Workers' Compensation Programs advised appellant and the employing establishment that additional information was required in reference to appellant's claim for a herniated disc under the Federal Employees' Compensation Act¹ and requested a detailed description of employment factors appellant believed contributed to his condition. No response was received from appellant nor the employing establishment.

By decision dated November 19, 1998, the Office denied appellant's claim finding that he failed to submit evidence that established that the claimed condition was causally related to his accepted employment factors. The Office explained that, although appellant provided employment factors to which he attributed his condition, he submitted no medical evidence to demonstrate that the alleged condition was employment related.

The Board finds that appellant has not established that he sustained an injury in the performance of duty causally related to factors of his federal employment.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was 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.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized 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.⁴

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990).

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

Appellant did not submit any medical evidence to establish that his herniated disc was sustained in the performance of duty causally related to factors of his employment. For this reason, appellant has failed to establish a *prima facie* claim.

The decision of the Office of Workers' Compensation Programs dated November 19, 1998 is hereby affirmed.

Dated, Washington, D.C.
August 15, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member