

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of WALLACE B. WORTHEN and U.S. POSTAL SERVICE,  
POST OFFICE, Little Rock, AR

*Docket No. 99-1690; Submitted on the Record;  
Issued August 4, 2000*

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DECISION and ORDER

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

The issue is whether appellant sustained an injury on May 21, 1997 in the performance of duty as alleged.

On June 3, 1997 appellant, then a 50-year-old mail clerk, filed a traumatic injury claim alleging that on May 21, 1997 he injured his back while throwing parcels of mail on a belt at work. He did not stop work.

The Office of Workers' Compensation Programs received a statement from appellant's employing establishment, duty status reports and medical documentation evidencing his evaluation and treatment for back pain. Appellant's supervisor stated that on May 28, 1997 appellant notified him that he needed to go to the emergency room for back pain, which he had experienced for the "last couple of days". He related that appellant believed his pain resulted from a prior injury and that working on the belt on May 21, 1997 had aggravated it. Appellant's supervisor indicated that appellant might have suffered a recurrence of a previous injury.

Medical reports received by the Office included notes by Dr. James Rice, a Board-certified internist, dated May 28, 1997 documenting appellant's visit to the emergency room at Baptist Memorial Medical Center and a letter report by Dr. James Adametz, a Board-certified neurologist, who saw appellant on June 9, 1997 for back pain.<sup>1</sup> Dr. Rice indicated that appellant experienced low back and left leg pains over the course of six days and had an intermittent history of low back pain after a back injury in 1989. He stated: "[appellant] has done some lifting and straining at the [employing establishment] recently with lifting above his head." Lumbar x-rays were taken at Baptist Memorial Medical Center and appellant was subsequently diagnosed with degenerative disc disease L5-S1 and restricted to limited-duty work. In Dr. Adametz's report, he stated: "... [appellant] had to do a lot of twisting of fairly light bundles

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<sup>1</sup> The record reflects that Dr. Adametz treated appellant for his previous injury in 1991.

but doing this constantly has really aggravated his back and he is having a lot of pain across the back. It still centers toward his SI joint.”

On July 10, 1997 the Office requested additional factual and medical information from appellant and his employing establishment regarding his claim. Appellant submitted a letter report in response, from Dr. Adametz dated July 22, 1997 who saw appellant for his continued complaints of back pain. Dr. Adametz stated: “I previously had said that I thought this was related to the change in his job position with the twisting he was doing. He clearly relates to me that is when his pain became worse and so I have related it to that.”

On November 14, 1997 the Office denied appellant’s claim on the grounds that he had not met the requirements for establishing that he sustained an injury in the performance of duty as alleged. The Office found that appellant had experienced the claimed incident, however, he failed to establish that a condition had been diagnosed in connection with the incident.

Appellant, through his attorney, requested an oral hearing in a letter received by the Office on December 10, 1997. The hearing was held on October 19, 1998. Appellant testified that in 1991 he had sustained a sacroiliac back strain, however he returned to regular work duty until May 1997 when he suffered the work incident described in his claim. Appellant submitted two additional medical reports from Dr. Adametz dated December 3, 1997 and October 13, 1998, in which he diagnosed appellant with sacroiliac joint sprain with chronic low back pain, related the history of his previous back injury in 1991 and related appellant’s condition at that time to lifting and twisting injuries at work. During the hearing, the hearing representative stated that the medical evidence of record did not refer specifically to the May 21, 1997 incident and he held the record open for 30 days so that appellant could submit additional evidence.

Counsel for appellant submitted a letter from Dr. Adametz addressed to him dated November 4, 1998, in which Dr. Adametz stated: “I agree that [appellant] has an injury to his sacroiliac spine that appears to have come from lifting and twisting the bundles of magazines that he handles at work. I feel like he should continue light duty. I can say all of this within a reasonable degree of medical certainty.” Appellant’s attorney asserted in an accompanying letter dated December 28, 1998 that the medical evidence established that the mechanics of appellant’s job and the twisting and throwing of magazine bundles on May 21, 1997 caused a new injury or resulted in an aggravation of the old work injury.

On January 4, 1999 the Office hearing representative affirmed the November 14, 1997 decision on the grounds that appellant had not established that he sustained an injury on May 21, 1997 in the performance of duty as alleged. The hearing representative found that, although appellant claimed that he injured himself on May 21, 1997, the medical evidence did not report the specific incident identified by appellant, but only indicated that his duties in May 1997 caused an injury to his sacroiliac spine. The hearing representative further found that the record failed to establish that appellant’s injury occurred from a one-time incident as alleged; therefore, appellant has not established that he sustained an injury on May 21, 1997.

The Board has duly reviewed the case on appeal and finds that appellant has failed to meet his burden of proof that he sustained a back condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation 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 filed within the applicable time limitation 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.<sup>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.<sup>3</sup> In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. In this case, the Office accepted that the first component, the employment incident, occurred as alleged.<sup>4</sup> The second component is whether the employment incident caused a personal injury and this generally can only be established by medical evidence. Causal relationship is a medical issue<sup>5</sup> and the medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>6</sup> must be one of reasonable medical certainty<sup>7</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.<sup>8</sup>

In the present case, the Office did not contest that the May 21, 1997 incident occurred at the time, place and in the manner alleged by appellant. Therefore, the only issue is whether appellant established that he sustained an injury as a result of the employment incident. He submitted medical reports from Drs. Rice and Adametz, who noted appellant's diagnosis,<sup>9</sup> provided a review of his previous back condition and discussed appellant's condition, in general in relation to his duties of lifting and twisting at work. Each physician opined that appellant's work duties caused his back injury or aggravated his previous back condition, however, neither conclusion was supported by medical rationale explaining the nature of the relationship between appellant's back condition and the specific incident of May 21, 1997. As the record is devoid of

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<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

<sup>4</sup> *Elaine Pendleton*, *supra* note 2.

<sup>5</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>6</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>7</sup> See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>8</sup> See *William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>9</sup> The Board notes that Dr. Rice diagnosed appellant with degenerative disc disease L5-S1 on May 28, 1997 while Dr. Adametz diagnosed him with sacroiliac joint sprain with chronic low back pain on December 3, 1997.

medical evidence sufficient to establish that appellant sustained a personal injury on May 21, 1997, the second prong of the fact-of-injury test has not been established. Appellant has not met his burden of proof.

The decision of the Office of Workers' Compensation Programs dated January 4, 1999 is affirmed.

Dated, Washington, D.C.  
August 4, 2000

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member