

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN F. BALL and U.S. POSTAL SERVICE,
POST OFFICE, Albuquerque, NM

*Docket No. 99-1634; Submitted on the Record;
Issued July 17, 2000*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

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

On November 21, 1998 appellant, then a 50-year-old mailhandler, filed an occupational disease claim alleging that he sustained a "hernia [and] complications due to a previous hernia operation" causally related to factors of his federal employment. Appellant stopped work on October 21, 1998.

In a statement accompanying his claim, appellant related that he had a history of hernias beginning in 1988 but did not file workers' compensation claims for the hernias because he was not able to identify when he sustained them. Appellant stated that he began working in a magazine sorting job and that when he had to sort sacks filled with magazines he experienced pain in his groin and back. He indicated that the pain usually decreased in a few days but that over the past couple of months he had "severe abdominal pain." Appellant related that his physician "found a hernia [and] severe damage to the intestines caused by mesh from [the] last hernia operation, on October 22, 1998."

By decision dated February 17, 1999, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the medical evidence submitted was insufficient to establish fact of injury.

The Board finds that appellant has not established that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim, including the fact that an injury was

¹ 5 U.S.C. §§ 8101-8193.

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

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 the 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 claimant.³ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.⁴ Rationalized medical opinion evidence is medical evidence which includes a physician's 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,⁵ must be one of reasonable medical certainty,⁶ 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.⁷ The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁸

In the present case, appellant submitted a note on a prescription pad dated November 23, 1998 from Dr. William C. Abbott, a Board-certified surgeon and his attending physician, who diagnosed a recurrent hernia which he opined was "probably work related from lifting mailbags." However, Dr. Abbott's opinion that appellant's hernia was "probably" caused by lifting at work is couched in speculative terms and therefore of diminished probative value.⁹ Dr. Abbott further completed a duty status report (Form CA-17) on November 23, 1998 in which he found appellant unable to work but did not specifically address the cause of his condition and thus the report is of little probative value.

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

³ *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384-85 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

⁹ *William S. Wright*, 45 ECAB 498 (1994).

In a report dated January 27, 1999, Dr. Abbott described his treatment of appellant for “multiple recurrent ventral abdominal wall hernias.” Regarding appellant’s most recent hernia operation in October 1998, Dr. Abbott stated:

“This proved to be a very difficult operation with not only an incarcerated hernia, but the small bowel stuck to previously placed mesh within the hernia, necessitating quite an extensive revision of his hernia, repair of his hernia and removal of small bowel.”

Dr. Abbott further stated, “I believe [appellant’s] claim that this was probably related to his employment and his mailhandling activities is a valid one and I think that he should be able to apply for workers’ compensation.” However, Dr. Abbott’s concurrence with appellant’s opinion that his condition was “probably” related to employment is speculative and thus of little probative value.¹⁰ Further, Dr. Abbott did not discuss how specific factors of appellant’s federal employment caused or contributed to his condition or provide sufficient rationale for his opinion.¹¹

As appellant has not submitted rationalized medical evidence to substantiate that he sustained an occupational disease due to factors of his federal employment, the Office properly denied his claim.

The decision of the Office of Workers’ Compensation Programs dated February 17, 1999 is affirmed.

Dated, Washington, D.C.
July 17, 2000

David S. Gerson
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

¹⁰ *Jacquelyn L. Oliver*, 48 ECAB 232 (1996).

¹¹ *Carolyn F. Allen*, 47 ECAB 240 (1995) (medical reports not containing rationale on causal relationship are entitled to little probative value.)