

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RALPH DAVIS and U.S. POSTAL SERVICE,  
MAIN POSTAL FACILITY, Merrifield, VA

*Docket No. 98-2040; Submitted on the Record;  
Issued March 16, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden of proof in establishing that he had disability due to an aggravation of a preexisting condition.

On November 20, 1995 appellant, then a 41-year-old mechanic, was returning to work on light duty and assigned to sorting mail. He claimed that he developed back pain while casing and sorting mail. Appellant noted that he had chronic lumbosacral pain, a herniated L5-S1 disc and chronic myofascial pain syndrome of the back, legs, knees and feet.<sup>1</sup> In a March 20, 1996 decision, the Office rejected appellant's claim on the grounds that fact of injury was not established. In an April 16, 1996 letter, appellant requested a hearing before an Office hearing representative which was held on November 6, 1996. In a December 18, 1996 decision, which became final on December 20, 1996, the Office hearing representative found that appellant had not submitted sufficient medical evidence to establish that he sustained an injury on November 20, 1995. In a letter received by the Office on December 19, 1997, appellant requested reconsideration. In a March 7, 1998 merit decision, the Office denied appellant's request for reconsideration.

The Board finds that appellant has not established that he has an employment-related aggravation of a preexisting back condition.

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<sup>1</sup> Appellant had previously been injured on June 3, 1994 when, while exiting a vehicle, he stepped on an oil slick, slipped and fell. The Office of Workers' Compensation Programs accepted the claim for a torn medial meniscus of the right knee and a sprain of the right elbow. He claimed that he had back problems due to altered gait resulting from the right knee injury but did not submit the medical evidence requested by the Office to establish a consequential injury. The Office, therefore, did not accept any claim for a back condition arising from the June 3, 1994 employment injury.

A person who claims benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of his claim. Appellant has the burden of establishing by reliable, probative and substantial evidence that his medical condition was causally related to a specific employment incident or to specific conditions of employment.<sup>3</sup> As part of such burden of proof, rationalized medical opinion evidence showing causal relation must be submitted.<sup>4</sup> The mere fact that a condition manifests itself or worsens during a period of employment does not raise an inference of causal relationship between the condition and the employment.<sup>5</sup> Such a relationship must be shown by rationalized medical evidence of causal relation based upon a specific and accurate history of employment incidents or conditions which are alleged to have caused or exacerbated a disability.<sup>6</sup>

In an August 10, 1995 duty status report, Dr. A. Ron Herron, Jr., a specialist in emergency medicine, indicated that appellant had chronic lumbosacral strain, chronic myofascial syndrome, herniated L5-S1 disc, status post right torn medial meniscus and contusion to the right elbow. In a February 6, 1996 form report, he indicated that appellant had returned to work and developed increasing back pain over 8½ hours of work. Dr. Herron concluded that appellant was totally disabled beginning December 21, 1996 when he had examined appellant. In a February 10, 1997 report, Dr. Joseph White, a Board-certified orthopedic surgeon, noted that a myelogram and computerized tomography scan showed a bulging L5-S1 disc. An electromyogram was normal. Dr. White stated that appellant had a contusion of the right elbow which was relatively asymptomatic. He commented that appellant had a four percent permanent impairment of the whole body due to his knee condition. Dr. White indicated appellant had a seven percent permanent impairment of the whole body because of the bulging disc at L5-S1.

Appellant had not previously established that he had a prior, employment-related back injury or back condition. He therefore cannot claim that he had a recurrence of an employment-related back condition due to prior back injury. The medical evidence showed that he had a bulging or herniated disc at L5-S1. This would be considered a preexisting, underlying condition unrelated to the November 20, 1995 employment injury. Appellant would be entitled to compensation for any disability caused by an employment-related aggravation of the underlying condition.<sup>7</sup> However, the medical evidence submitted by appellant does not discuss whether appellant's back condition on or after November 20, 1995 was an employment-related aggravation of an underlying or preexisting condition, particularly appellant's bulging lumbosacral disc. The medical evidence only notes the bulging disc but does not discuss whether appellant's back pain on November 20, 1995 was an employment-related aggravation of

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Margaret A. Donnelly*, 15 ECAB 40, 43 (1963).

<sup>4</sup> *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

<sup>5</sup> *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

<sup>6</sup> *Edgar L. Colley*, 34 ECAB 1691, 1696 (1983).

<sup>7</sup> *James L. Hearn*, 29 ECAB 278 (1978).

that condition. Appellant, therefore, has not established that he has any disability causally related to his November 20, 1995 employment injury.

The decision of the Office of Workers' Compensation Programs, dated March 7, 1998, is hereby affirmed.

Dated, Washington, D.C.  
March 16, 2000

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Willie T.C. Thomas  
Alternate Member