

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAUL YORK and U.S. POSTAL SERVICE,
POST OFFICE, Toledo, OH

*Docket No. 98-2276; Submitted on the Record;
Issued March 24, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant met his burden of proof in establishing that he sustained an injury to his lower back in the performance of duty causally related to factors of his federal employment.

On March 19, 1998 appellant, then a 41-year-old mailhandler, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that he had low back pain due to "repetitive heavy lifting on a daily basis ... which increased in frequency and severity from September 13, 1996 to present." Appellant submitted a statement with his claim, wherein he noted that as a mailhandler, he was required to do a lot of heavy lifting, and that he believed that this day-to-day lifting was responsible for his low back pain, which gradually increased in frequency, intensity and duration. Appellant continued working, although he missed a few days for epidural pain block injections.

Submitted with the claim was a medical report by Dr. George K. Rowe, a chiropractor, dated September 13, 1996, in which Dr. Rowe noted that appellant was suffering from low back pain which radiated into his left buttock, and that this low back pain increased in the past three months. He noted that appellant told him that he does a lot of heavy lifting at work, and that he believed that this aggravated an old military injury. Dr. Rowe also noted that appellant had been diagnosed with tendinitis in both shoulders.

Appellant further submitted a medical report dated December 19, 1997, in which Dr. Michael A. Healy, a Board-certified orthopedic surgeon, noted that appellant came to see him for chronic low back pain, that appellant noted that he has had a problem with his low back off and on since the service, and that in the last year and a half this pain seemed to be getting worse and now has radiated into his buttocks, more on the left than the right. He noted that a review of appellant's magnetic resonance imaging (MRI) showed some lumbar spondylosis and a small disc herniation at L5-S1. However, he opined, "I am not sure that this is contributing to

his radicular symptoms because it does not seem to be abutting any roots.” Dr. Healy noted his plan to try appellant on some epidural steroids.

Appellant was treated at St. Vincent Mercy Medical Center. In a January 13, 1998 medical report, Dr. Ajith K. Pai, a Board-certified neurologic surgeon, noted that appellant suffered from a recent exacerbation of chronic low back pain with left radicular symptoms. Dr. Pai agreed with Dr. Healy that appellant may benefit from a trial of epidural injections. On January 30, 1998 appellant underwent a lumbar epidural steroid block performed by Dr. Eugene O. Mitchell, a Board-certified anesthesiologist. On February 6, 1998 appellant underwent a caudal epidural steroid block by Dr. Damodar Reddy, who is Board-certified in critical care management and pain management.

In a medical report dated February 18, 1998, Dr. Healy noted that epidurals had helped the leg pain but did not seem to do much for the back pain. He further noted, “There is also some confusion whether this is a work-related injury or whether this is an injury related to his prior service-connected disability.”

In response to the Office of Workers’ Compensation Programs’ request for more information dated April 14, 1998, appellant submitted a written statement noting that his service-connected disability was for low back pain, which was diagnosed as muscle spasms, and that Drs. Healy, Reddy, Rowe and Pai were reluctant to go on record as to the cause of his back pain as x-ray and MRI examinations were inconclusive.

In a later letter, appellant noted that his back problem from service-connected disability was diagnosed as muscle spasms back in 1978, that his MRI indicated disc herniation and lumbar spondylosis, that these problems were not the same as muscle spasms, and that is why he believes that his condition is work related.

In a decision dated June 22, 1998, the Office denied appellant’s claim for compensation as it found that the medical evidence was insufficient to establish that his condition was caused by employment factors.

The Board finds that appellant has failed to meet his burden of proof in establishing that he sustained an injury to his low back in the performance of duty causally related to factors of his federal employment.

An employee seeking benefits under the Federal Employees’ Compensation Act¹ 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 an injury was sustained in the performance of duty as alleged and any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the

¹ 5 U.S.C. §§ 8101-8193.

² *Louise F. Garnett*, 47 ECAB 639, 643 (1996); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

essential elements of each and every 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, appellant must submit the following: (1) medical evidence establishing the presence or existence of a disease or condition for which compensation is alleged; (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 appellant 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 appellant.⁴ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.⁵ 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 appellant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of appellant, 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.⁶

In the instant case, there is no rationalized medical opinion that definitely supports a causal relationship between appellant's shoulder condition and his federal employment. Dr. Rowe made no independent statement as to causal relationship; he merely noted appellant's belief that that injury was work related. Dr. Healy was extremely speculative as to any possible connection between appellant's low back injury and his employment, stating, "There is also some confusion whether this is a work-related injury or whether this is an injury related to his prior service-connected disability." Drs. Pai, Healy and Reddy made no comment as to whether appellant's low back pain was related to his employment.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during the period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁷ Causal relationship must be established by rationalized medical evidence. Appellant failed to submit such evidence and the Office therefore properly denied appellant's claim for compensation.

³ The Office's regulations clarify that a traumatic injury refers to injury caused by a specific event or incident or series of events or incidents occurring within a single workday or work shift whereas occupational disease refers to injury produced by employment factors which occur or are present over a period longer than a single workday or shift; *see* 20 C.F.R. § 10.5(a)(15), (16).

⁴ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁵ *Ern Reynolds*, 45 ECAB 690 (1994).

⁶ *Joe L. Wilkerson*, 47 ECAB 604, 605 (1996).

⁷ *Victor J. Woodhams*, *supra* note 4 at 353-54.

The decision of the Office of Workers' Compensation Programs dated June 22, 1998 is affirmed.

Dated, Washington, D.C.
March 24, 2000

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member