

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HARRY R. ROBINSON, II and U.S. POSTAL SERVICE,
POST OFFICE, San Jose, CA

*Docket No. 98-2487; Submitted on the Record;
Issued March 13, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof in establishing that he sustained an injury in the performance of duty on June 7, 1998, as alleged.

On June 8, 1998 appellant, then a 29-year-old mailhandler, filed a notice of traumatic injury and claim for pay/compensation (Form CA-1) alleging that on June 7, 1998 he experienced soreness while lifting a mail tray from OTR and cages. The record reflects that appellant was placed on modified duties on June 6, 1998 due to a lumbar strain. In a June 8, 1998 CA-17 form, duty status report, Dr. Hung T. Vu, an employing establishment physician, diagnosed appellant with shoulder tendinitis and lumbar strain and opined that the history given by appellant corresponds to the description of how the injury occurred, by checking a box.

In a letter dated June 23, 1998, the Office of Workers' Compensation Programs requested that appellant submit additional factual and medical evidence in support of his claim, including a physicians well-rationalized opinion regarding causal relationship between his claimed condition and factors of his employment.

Appellant forward a CA-17 form, duty status report, dated June 15, 1998 from Dr. Vu who diagnosed a chronic back strain and opined that the history given by appellant corresponds to the description of how the injury occurred, by checking a box. In a CA-17 form dated June 16, 1998, he diagnosed rotator cuff tendinitis and possible lumbar disc disease and opined that the history given by appellant corresponds to the description of how the injury occurred, by checking a box. Dr. Vu also submitted industrial illness/injury treatment reports which found appellant totally disabled due to his shoulder condition. In a June 16, 1998 medical report, Dr. Allen Kaisler-Meza, a physiatrist, noted that appellant had a progressive onset of bilateral shoulder and back pain which appellant attributed to his job. He noted that appellant reported a previous low back injury approximately 10 years prior. After performing an examination, Dr. Kaisler-Meza diagnosed bilateral impingement syndrome (rotator cuff tendinitis) and lumbar back pain with possible lumbar disc disease. He stated that appellant's clinical findings support

his complaints and that the repetitive nature of appellant's work puts him at risk for repetitive injury of the rotator cuff as well as the low back.

In a July 14, 1998 decision, the Office disallowed appellant's claim for compensation benefits finding that the evidence of record failed to establish that an injury was sustained as alleged.

The Board has duly reviewed the case record in the present appeal and finds that appellant failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty on June 7, 1998, as alleged.

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 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 essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

There is no dispute that appellant is a federal employee, that he timely filed his claim for compensation benefits and that the workplace incidents or exposure occurred as alleged. However, the medical evidence is insufficient to establish that appellant sustained an injury in the performance of duty on June 7, 1998.⁴ The CA-17 forms from Dr. Vu are insufficient to meet appellant's burden. Inasmuch as he merely checked a box indicating that the history given by appellant corresponded to the description of how the injury occurred, without providing any supporting rationale, Dr. Vu's opinion has little probative value and is insufficient to establish causal relationship.⁵ Likewise, in his June 16, 1998 report, Dr. Kaisler-Meza did not address the cause of appellant's condition or attribute appellant's diagnosed conditions of bilateral impingement syndrome, lumbar back pain and possible lumbar disc disease as arising from or being aggravated by appellant's work; he merely opined that the repetitive nature of appellant's work puts him at risk for further injury. Accordingly, Dr. Kaisler-Meza's opinion is of diminished probative value and is insufficient to establish causal relationship.⁶ The Office advised appellant, by letter dated June 23, 1998, of the type of medical evidence needed to

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ Part of a claimant's burden of proof includes the submission of rationalized medical evidence based upon a complete factual and medical background showing causal relationship between the claimed injury and employment factors; see *Mary J. Briggs*, 37 ECAB 578 (1986); *Joseph T. Gulla*, 36 ECAB 516 (1985).

⁵ See *Ruth S. Johnson*, 46 ECAB 237 (1994).

⁶ See *Barbara J. Williams*, 40 ECAB 649 (1989).

establish his claim, but he did not provide such evidence. Consequently, appellant has not submitted sufficient medical evidence to meet his burden of proof in establishing that he sustained an injury in the performance of duty on June 7, 1998.

The July 14, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
March 13, 2000

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member