

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of McARTHUR JONES and U.S. POSTAL SERVICE,
POST OFFICE, Miami, FL

*Docket No. 98-2587; Submitted on the Record;
Issued March 17, 2000*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's claim for compensation from April 16 through May 9, 1996.

The Board has duly reviewed the case record and concludes that the Office properly denied appellant's claim for compensation from April 16 through May 9, 1996.

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 is causally related to the employment injury.¹ 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.² As part of this burden, appellant must present rationalized medical evidence based upon a complete factual and medical background showing causal relationship.³

The Office accepted appellant's claim for aggravation of nasal congestion. Appellant was placed on light-duty work eight hours a day. As of April 16, 1996, appellant started working four hours a day, and on May 16, 1996 and February 3, 1998 filed a claim, Form CA-8, for continuing disability for four hours a day from April 16 through May 9, 1996.

¹ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

² *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

³ *Donald Leroy Ballard*, 43 ECAB 876, 881 (1992).

By letter dated July 1, 1996, the Office informed appellant that medical documentation showing he could only work partial days from April 13 through May 10, 1996 was necessary.

Appellant's leave slip dated April 28 through May 4, 1996 and the work chart from the employing establishment for this time period showed that appellant took annual leave due to a death in the family. Appellant's leave slips from April 16 through April 20, 1996, from April 23 through April 26, 1996 and from May 7 through May 9, 1996 stated, "LWOP," *i.e.*, leave without pay, or "no work" or both. The April 16, 1996 leave slip also stated that appellant "refused to sign."

In a statement dated March 31, 1997, appellant stated that, for the relevant time period April 16 through May 9, 1996, the employer, particularly his supervisor, Mr. Millares, sent him home because they did not have work under his limited-duty restrictions after four hours. Appellant stated that he refused to sign one of his leave slips because he felt he should not have to take leave if he was being sent home. Appellant admitted that he took 48 hours of leave due to a death in the family but stated that the reasons he was sent home were due to restrictions due to his nasal congestion problem.

In an employing establishment "routing slip" dated May 14, 1996 from Mr. Millares to "S.O. Buckley," Mr. Millares stated that appellant had been doing police work outside the building because of his problems with dust. He stated that "last month" appellant complained that he was working outside his limitations in that he was supposed to be off his feet four hours a day. Mr. Millares stated that because he did not have "anything for [appellant] free of dust and sitting down in the custodian section," he told appellant to go home after four hours. He stated that for the past eight months appellant had not been exposed to any dust inside the building.

By letter dated April 22, 1998, the employing establishment controverted the claim, stating that prior to April 16, 1996 appellant had been on light duty for his preexisting back condition and that his claim for a back condition was disallowed on January 10, 1996. The employing establishment stated that appellant was sent home April 16 through April 26, 1996 and May 7 through May 9, 1996 because there was no work available to accommodate his restrictions for his back problem, which was not work related. The Office's decision dated January 10, 1996 shows that it rejected appellant's claim for a recurrence of disability, No. A6-623992, commencing July 14, 1995 due to his March 25, 1995 employment injury which was a lumbosacral strain. The Office indicated in that decision that appellant had been on work limitations due to a nonwork-related preexisting herniated disc which occurred in 1990, and after the March 25, 1995 employment injury, he was released back to work on his previously established work limitations on April 18, 1995.

By letter decision dated July 29, 1998, the Office denied appellant's claim for wage loss for the period April 16, 1996 through May 9, 1996 citing insufficient medical evidence establishing a causal relationship between the period of disability claimed and the accepted March 15, 1994 work injury.

While appellant submitted numerous duty status reports, Form CA-17, dated April 8, 1997 through April 29, 1998 indicating that he could work eight hours with physical restrictions

and “no exposure,” he did not submit any medical evidence describing his physical condition for the time period April 16 through May 9, 1996.

As appellant has presented no medical evidence to establish that the reason for his absence from work from April 16 to April 26, 1996 and from May 7 to May 9, 1996 was due to the accepted condition of aggravation of nasal congestion, appellant has presented insufficient evidence to establish his claim.⁴ He is not entitled to compensation for the period April 28 to May 4, 1996 since he took leave due to a death in the family. Despite the Office advising appellant of the evidence he must submit to establish his claim, appellant did not submit this evidence. He therefore is not entitled to disability compensation for the claimed time period April 16 to May 9, 1996.

The decision of the Office of Workers’ Compensation Programs dated July 29, 1998 is hereby affirmed.

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

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ See *Donald Leroy Ballard*, *supra* note 3 at 881 (1992).