

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN CASTILLO and U.S. POSTAL SERVICE, SAN FRANCISCO
PARCEL & DELIVERY CENTER, San Francisco, CA

*Docket No. 99-748; Submitted on the Record;
Issued May 19, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained a traumatic injury on July 15, 1997.

On July 15, 1997 appellant, then a 47-year-old tractor-trailer operator, filed a claim for neck and back strain, particularly in the lower back, due to driving trucks, pushing and pulling equipment and other material. The employing establishment indicated that the date of injury was July 15, 1997 and appellant stopped work at that time. Appellant received continuation of pay for the period July 16 through August 29, 1997. He returned to work on September 9, 1997. In a September 18, 1997 decision, the Office of Workers' Compensation Programs found that appellant's injury was not traumatic as it did not occur within a single work shift and, therefore, was an occupational injury. It, therefore, found appellant was not entitled to continuation of pay because he had not sustained a traumatic injury. In a September 19, 1997 letter, the Office informed appellant that it had accepted his claim for low back strain. Appellant requested a hearing before an Office hearing representative, which was conducted on June 23, 1998. In an August 20, 1998 decision, the Office hearing representative found that the factual and medical evidence established that appellant's injury occurred over a period longer than a single work shift and, therefore, was an occupational injury. He concluded that appellant, therefore, was not entitled to continuation of pay.

The Board finds that appellant sustained a traumatic injury on July 15, 1997 and is, therefore, entitled to continuation of pay.

The Federal Employees' Compensation Act provides that continuation of pay shall be authorized for a period of wage loss due to a traumatic injury. Traumatic injury is defined by the regulations as an injury, which is "identifiable as to time and place of occurrence and member or function of the body affected," and "caused by a specific event or incident or series of events or incidents within a single day or work shift."¹ Traumatic injuries are distinguished from

¹ 20 C.F.R. § 10.5(15).

occupational diseases or illnesses in that the latter are produced by systemic infection; continued or repeated stress or strain; exposure to toxins, poisonous fumes, etc. or other continued or repeated exposure to conditions of the work environment over a longer period of time.²

In this case, appellant initially filed a claim for a traumatic injury on July 15, 1997. In the claim, appellant attributed his back condition to driving trucks and pushing and pulling equipment. In a July 16, 1997 form report, Dr. Lawrence Sirott, a Board-certified family practitioner, indicated that appellant sustained an injury on July 15, 1997 at 7:00 p.m. He stated that appellant's subjective complaints were low back pain, aggravated by driving a truck. The employing establishment raised a question on whether appellant sustained a traumatic or occupational injury. In response to the Office's questions, appellant stated that his injury occurred from the continuous pounding on his lower back when operating postal vehicles, particularly those that were defective or in need of repair. He indicated that the injury occurred over a period of time and when he struck a bump in the road on July 15, 1997, which caused sharp pain. He reported the injury to his supervisor at that time. At the hearing, appellant indicated that the truck he drove had the driver's seat directly over the axle, which would cause constant compression shock to the spine. Appellant stated that on July 15, 1997 he reported for his shift at 5:00 p.m. While he was driving that night, at approximately 7:15 p.m., he hit a rut in the road and was violently slammed into the cab roof. He testified that he had a blinding pain in his neck and back, which caused him to momentarily lose control of the truck. Appellant stated that, when he returned to the employing establishment, he immediately reported the injury.

Appellant submitted several reports to corroborate his statement. In an October 3, 1997 report, Dr. Steven Heller, a chiropractor, stated that he saw appellant on July 21, 1997 for neck and back pain. He related that appellant gave a history of being jostled and hitting his head while going over bumps on July 15, 1997. In a separate October 3, 1997 report, Jay Lasko, an acupuncturist, stated that he treated appellant on September 2, 1997 for cervical and back pain. He indicated that appellant indicated that he had chronic back pain but related his neck and upper body pain to a July 15, 1997 employment injury. In a June 25, 1998 statement, a coworker stated that appellant, on July 15, 1997 at approximately 8:00 p.m., told him how he hit a bump or rut in the road at approximately 7:25 p.m. that day while driving his truck. Appellant indicated that his head was jammed into the cab roof with intense force, causing neck and back pain and nearly causing him to lose control of the postal truck. The coworker reported that he saw appellant report the injury to their supervisor. In a July 13, 1998 report, Dr. Sirott stated that he saw appellant on July 16, 1997 for work-related low back pain related to an injury on July 15, 1997.

While appellant indicated that he had chronic back pain due to aspects of his job, such as driving trucks and pushing equipment around, he stated that he sustained a sudden, blinding pain on July 15, 1997 when he hit a rut or bump in the road, causing him to hit his head on the roof of the truck cab. Appellant did not mention this specific aspect of the incident in his initial claim. However, he reported a traumatic injury on the date that he later stated the injury occurred. Appellant sought medical treatment the day after the alleged injury. In his August 29, 1997 statement, appellant reported that he had back pain from the continuous pounding of driving a

² *Dennis M. Hinton, Ph.D.*, 38 ECAB 792 (1987).

truck but noted immediate sharp pain after the truck hit a bump on July 15, 1997. The physician who treated appellant on July 16, 1997 indicated that appellant related his low back pain to a July 15, 1997 injury at work. A coworker stated that he saw appellant report the injury on the day it occurred. A chiropractor and an acupuncturist also stated that appellant related his immediate pain to a July 15, 1997 employment injury. The evidence of record, therefore, shows that appellant sustained a specific incident or event during one work shift on July 15, 1997. Appellant also related his pain to his duties of driving a truck and pushing equipment. However, if the evidence shows one specific incident or event during one workday, even while a claimant is carrying out duties over a period of time, the specific incident will be considered a traumatic injury, entitling the claimant to receive continuation of pay.³ Appellant, therefore, is entitled to continuation of pay.

The decision of the Office of Workers' Compensation Programs, dated August 20, 1998, is hereby reversed.

Dated, Washington, D.C.
May 19, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

³ *Id.*