

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LOUISE SEDZIELASZ and U.S. POSTAL SERVICE,
POST OFFICE, Chicago, IL

*Docket No. 99-969; Submitted on the Record;
Issued May 5, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury causally related to an employment incident on April 15, 1998.

The Board has duly reviewed the case record on appeal and finds that appellant failed to meet her burden of proof in establishing that she sustained an injury causally related to an employment incident on April 15, 1998.

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 are 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 In order to determine whether an employee actually sustained an injury in the performance of duty, the Office of Workers' Compensation Programs begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components, which must be considered in conjunction with one another. In this case, the Office accepted that the first component, the employment incident, occurred as alleged.³ The second component is whether the employment incident caused a personal injury and this generally can only be established by medical evidence. Causal relationship is a medical

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

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

³ *Elaine Pendleton*, *supra* note 1.

issue⁴ and the medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty,⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

In this case, on September 11, 1998 appellant, then an automated mark-up clerk, filed a notice for traumatic injury and claim for continuation of pay/compensation alleging that on April 15, 1998 she stooped down to pick up a tray and felt the muscle in her knee pop. Appellant noted that she stopped work on April 17, 1998 and worked intermittently until about July 3, 1998 when she returned to full work duty.

In support of her claim, appellant submitted progress notes from her treating physicians, Dr. Bozena Sznajder, a Board-certified family practitioner and Dr. Larry Lindemen, an attending physician, dating from May 4 to July 22, 1998. The reports related that appellant suffered from chronic left knee pain over a period of two months, diagnosed as tendinitis and had work limitations due to the pain in her left knee that restricted her from stooping, kneeling or squatting.

In a letter dated September 24, 1998, the Office advised appellant of the type of factual and medical evidence needed to establish her claim. The Office specifically requested a detailed description as to how the injury occurred; the immediate effects of the injury and her immediate reaction; whether appellant sustained any other injury, either on or off duty, between April 15, 1998 and the date it was reported; whether appellant had a similar disability or symptoms before the injury and the condition appellant was in between April 15, 1998 and the date she was first examined for the injury; and the reason why appellant delayed in seeking medical attention and reporting the injury to her employer. The Office further requested a physician's opinion supported by medical rationale as to the causal relationship between her disability and the injury as reported. Appellant was informed that her case would be held open for 21 days to submit medical evidence or her claim might be denied.

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

Appellant submitted a personal statement dated October 7, 1998, in response to the Office's letter dated September 23, 1998, in which she stated:

"I did not report (give written notice) of my injury to my supervisor within 30 days because I thought my injury would get better. However, I did give verbal notice of my injury to my supervisor within 48 hours of my injury. I noticed that my left knee hurt when I left work on April 15, 1998. My left knee did not hurt when I came to work that morning, or at any time previous to that. I believe that I must have injured my knee when I was loading the computer terminals with mail. The action consisted of stooping to lift a tray of letters from the floor, stepping back with the tray in order to avoid the computer terminal ledge and then placing the tray on that ledge.... I did not notice the injury while I was working, but I felt it as I left work that same day at 3:30 p.m.... When I woke up on Friday, April 17 my left knee was much worse than it had been the day before. I called my supervisor and told him about it and also told him that I would get medical attention that day."

By decision dated October 29, 1998, the Office denied appellant's claim for compensation because the medical evidence was not sufficient to establish that her condition was caused by the injury as required by the Act.

The Office further found in its October 29, 1998 decision that the evidence presented by her physicians failed to explain whether or how a work injury on April 15, 1998 or overall work factors caused or contributed to the condition diagnosed as tendinitis. The Office noted in its decision that it had afforded appellant the opportunity to provide supportive evidence; however, no such evidence was submitted.⁸

There is no dispute that appellant established that on April 15, 1998 she was on the premises of her employing establishment during working hours and was performing the duties of her position when she stooped down to lift a tray of letters from the floor. Appellant has failed however to establish that a causal relationship existed between her diagnosed condition and an incident or factor of her employment. To be of probative value to appellant's claim, the reports of either Dr. Lindemen or Dr. Sznajder must have contained a medical rationale addressing the specifics, both factual and medical, of appellant's case.⁹ The medical testimony offered in appellant's case lacked sufficient probative value to discharge appellant's burden of proof. Appellant's treating physicians offered no factual or medical background that might relate to their findings that appellant sustained tendinitis in her left knee. Further, the physicians never addressed any specific employment factors that could have caused appellant's condition or a rationalized medical opinion that supports a causal relationship between the employment incident and her condition. An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of

⁸ Additional evidence has been submitted since the Office's October 29, 1998 decision. The Board cannot consider new evidence on appeal; however, appellant can submit new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.138(b); *see* C.F.R. § 501.2(c).

⁹ *William E. Enright, supra* note 7.

employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.¹⁰ Causal relationship must be established by rationalized medical opinion evidence.

Consequently, because appellant did not submit an affirmative opinion from a physician who supported her conclusion that she sustained a work-related injury with sound medical reasoning, the Board will affirm the denial of appellant's claim for compensation.

The October 29, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
May 5, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

A. Peter Kanjorski
Alternate Member

¹⁰ *Id.*