

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUAN DEJESUS and U.S. POSTAL SERVICE,
POST OFFICE, El Paso, TX

*Docket No. 00-44; Submitted on the Record;
Issued November 14, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has established that he sustained an injury causally related to compensable factors of his federal employment.

In the present case, appellant filed a claim on July 23, 1997 alleging that he sustained post-traumatic sleep disorder, sympathetic dystrophy of the right hand and cervical strain, as a result of his federal employment. In a statement dated October 2, 1997, appellant indicated that in early November 1996 his duty station had changed, requiring him to drive to work in excess of medical restrictions. Appellant also indicated that he was required to write and lift packages in excess of his medical restrictions.

By decision dated April 27, 1998, the Office of Workers' Compensation Programs denied the claim, finding that appellant had not established compensable work factors as contributing to an employment injury. Appellant requested a hearing, and by decision dated May 4, 1999, the Office hearing representative affirmed the prior decision.

The Board finds that the case is not in posture for decision.

In the May 4, 1999 decision, the Office hearing representative stated that the issue was whether appellant had established a recurrence of disability commencing January 30, 1997 causally related to a prior employment injury (OWCP File No. A16-251994, accepted for cervical strain, bilateral shoulder strain, a right carpal tunnel syndrome).¹ This is not, however, the issue presented. Although appellant may file a claim for a recurrence of disability pursuant to the prior claim, the issue before the hearing representative was whether appellant has established an employment injury causally related to the identified employment factors commencing in November 1996. Since the Office had found, in its April 27, 1998 decision, that there were no compensable work factors substantiated, the proper analysis is to first determine if

¹ The hearing representative also cited case law relevant to a claim for a recurrence of disability.

appellant has established compensable work factors.² If so, the next issue is whether the medical evidence is sufficient to establish causal relationship between a diagnosed condition and the employment factors, and if so, the nature and extent of any disability for work.³

In this case, the hearing representative stated that it was accepted as factual that from November 2 to 6, 1996 appellant was required to lift parcels from 5 to 15 pounds approximately 4 hours per day. The April 27, 1998 Office decision did not accept as factual any allegation regarding lifting at work. To the extent that appellant is alleging an aggravation of a prior physical injury, the lifting at work is clearly a compensable work factor, but the hearing representative does not discuss the prior decision or otherwise clarify the factual findings as to the identified work factors under the occupational claim filed on July 23, 1997. Moreover, the hearing representative does not properly address the remaining issues. He stated that appellant had not established total disability commencing January 30, 1997, which apparently represented a finding on the presumed issue of a recurrence of disability commencing on that date.⁴ There must first be a finding that a diagnosed condition is causally related to compensable work factors, and then an appropriate finding can be made as to any disability for work.

The Board accordingly finds that the Office hearing representative did not properly address the issues that were presented under the present claim (File No. A16-0301795). The case will be remanded to the Office for an appropriate decision on the issues presented.

² Unless a claimant establishes a compensable work factor, it is unnecessary to address the medical evidence of record. *Effie O. Morris*, 44 ECAB 470 (1993).

³ See *Ruby I. Fish*, 46 ECAB 276 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ The Board notes that appellant appears to be claiming that his employment in early November 1996 aggravated his prior arm and shoulder condition. The aggravation of the prior injury would not be considered a recurrence of disability, since new work factors are implicated. See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3 (January 1995).

The decision of the Office of Workers' Compensation Programs dated May 4, 1999 is set aside and the case remanded to the Office for further action consistent with this decision of the Board.

Dated, Washington, DC
November 14, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Valerie D. Evans-Harrell
Alternate Member