

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NICHOLAS C. SYNAN and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Pittsburgh, PA

*Docket No. 99-2400; Submitted on the Record;
Issued November 14, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury to his right shoulder and low back by sorting mail in July 1997.

On August 7, 1997 appellant filed a claim for a strain of his right shoulder and back that he attributed to "sitting and bending over a tray of mail holding arms in an upward position and sorting first class mail from second class mail." He stated that he first became aware of his disease or illness and its relationship to his employment on or about July 8, 1997. Appellant stopped work on July 15, 1997 and returned to work on July 18, 1997.

The employing establishment reported that on October 20, 1993 appellant returned to full duty receiving compensation for approximately nine years for a 1969 work-related injury, that the Office of Workers' Compensation Programs accepted that appellant sustained a lumbar strain and an exacerbation of his failed back syndrome on March 4, 1994, and that as a result of this later injury appellant was performing limited duty in the held for postage section for four hours per day. The employing establishment also reported that in the beginning of July 1997 appellant was moved out of the held for postage section into the combo-primary section where his assignment was "to separate first class letters from second and third class letters. In order to accomplish this, he was seated, the tray of mail was placed on a table in front of him, and he had both arms extended over the tray of mail at or near shoulder level."

In brief notes dated July 18, 1997, appellant's attending physician, Dr. Brian E. Condit, stated that appellant was seen that day, that he should be excused from work from July 16 to 18 "due to exacerbation of his back problem and right shoulder," and that he was having shoulder problems with his new position and should return to his previous position in rewrap if possible.

By decision dated October 21, 1997, the Office found that appellant had not established fact of injury, as there was no medical evidence that he injured his shoulders or low back in July 1997.

Appellant requested a hearing, which was held before an Office hearing representative on February 11, 1999. He testified that his right shoulder pain developed over a week's length of time due to having his arms outstretched to work. Prior and subsequent to the hearing, appellant submitted additional medical evidence. In a report dated May 18, 1998, Dr. Condit stated:

“[He] did try a position last summer where he was doing some reaching over his shoulder height and developed rotator cuff impingement symptoms with this. He returned to his Rewrap position, went through some conservative treatment and got better. ... I do not think he is medically able to perform a job where he is putting his shoulder into an impingement, i.e. shoulder level or above position on a frequent or even occasional basis because he subsequently develops impingement type symptoms.”

In a report dated January 21, 1999 and prepared for the employing establishment, Dr. Victoria M. Langa set forth a history “that in July, 1997, he was briefly assigned to a ‘combo’ position which, among other things, included casing mail. He states that in working for prolonged periods of time with both his upper extremities outstretched in front of him he developed bilateral shoulder discomfort.” Dr. Langa noted that appellant specifically denied any prior history of injuries or complaints with respect to his shoulders, that shortly after reporting his shoulder discomfort he was returned to the sedentary held for postage position, and that he was treated by Dr. Condit with a course of physical therapy and restriction from work activities using his upper extremities above shoulder level whereupon his shoulder discomfort improved. After describing appellant's symptoms and findings on physical examination, Dr. Langa stated that appellant's residual symptomatology of the low back “would be consistent with the adhesive arachnoiditis as documented on his postoperative studies” and that he had a residual permanent partial impairment with respect to his low back that permanently restricted him to the sedentary work category. Dr. Langa then stated:

“With respect to his shoulders, [appellant] reports first developing discomfort in July, 1997 when assigned to a ‘combo’ position casing mail, and later experiencing recurrent bilateral shoulder discomfort when transferred to the position of a modified distribution clerk, which also required casing mail. Judging from the medical records, he developed impingement like complaints in both of his shoulders on both occasions, and on both occasions these impingement conditions were successfully managed with conservative measures and the avoidance of overhead activities. At present, on the left, [appellant's] physical examination is entirely unremarkable, and, in my opinion, he is fully recovered from any soft tissue injury of the left shoulder previously sustained. On the right, findings on physical examination are those of mild residual impingement. Having reviewed his MRI [magnetic resonance imaging], in my opinion, the impingement is caused by a down sloping acromion in combination with a degenerative (arthritic) acromioclavicular joint. These conditions are preexisting and, to some extent, age related, and not specifically related to [appellant's] employment. With respect to the right shoulder, in my opinion, he is fully recovered from any work[-]related soft tissue injury. In my opinion, his residual minimal right shoulder complaints are resulting from the preexisting impingement condition. In my opinion, with respect to his shoulders, there are no ongoing ‘work[-]related’

restrictions at the present time. However, that having been said, given the fact that he does have a preexisting impingement condition in his right shoulder, it is predictable that if he were to engage in work activities requiring continuous use of his upper extremities at or above shoulder level, it is likely that he will experience increased impingement symptomatology. In my opinion, he does not require any further treatment for either one of his shoulders at the present time.”

By decision dated April 26, 1999 an Office hearing representative found that appellant had not established fact of injury, as the medical reports from Drs. Langa and Condit did not provide medical rationale explaining the relationship between appellant’s shoulder condition and his employment activities.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected by his employment. As part of this burden he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation. The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.¹

The Board finds that appellant has not established that he sustained an injury to his low back in July 1997. The May 18, 1998 report from Dr. Condit and the January 21, 1999 report from Dr. Langa do not indicate appellant sustained any injury to his low back by performing work in the combo unit in July 1997. The only report that lends any support to the claim for a back injury is a July 18, 1997 note from Dr. Condit that he should not work due to exacerbation of his back problem. This note is insufficient to meet appellant’s burden of proof, as it contains no description of work factors to which the doctor attributes the exacerbation of appellant’s back problem and no rationale on causal relation. Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee’s burden of proof.²

The Board further finds that appellant has established that he sustained a soft tissue injury to his right shoulder in July 1997. The May 18, 1998 report from Dr. Condit and the January 21, 1999 report from Dr. Langa both support that appellant sustained such an injury. Dr. Langa’s report contains an accurate history of the work activities appellant was performing in July 1997, and a reasoned opinion that the symptoms of appellant’s preexisting impingement condition of his right shoulder were increased by these activities. Dr. Langa’s report is sufficient to establish that appellant sustained a soft tissue injury to his right shoulder in July 1997. The Office should pay appellant compensation for time missed from work from July 16 to 18, 1997, the period during which Dr. Condit stated, in a July 18, 1997 report, that appellant was having shoulder

¹ *Froilan Negron Marrero*, 33 ECAB 796 (1982).

² *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

problems with his new position and was unable to work. The Office should also pay any medical expenses associated with the July 1997 right shoulder injury.³

The decision of the Office of Workers' Compensation Programs dated April 26, 1999 is hereby affirmed with respect to appellant's claim for a low back injury in July 1997. With respect to his claim for a right shoulder injury, the Office's April 26, 1999 decision is reversed and the case remanded to the Office for action consistent with this decision of the Board.

Dated, Washington, DC
November 14, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

³ The Board notes that the Office has not adjudicated appellant's claim for another shoulder injury allegedly sustained in April 1998.