

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHNNY GALINDO and U.S. POSTAL SERVICE,
POST OFFICE, Houston, TX

*Docket No. 00-2267; Submitted on the Record;
Issued August 2, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury causally related to his federal employment.

On March 9, 2000 appellant, then a 52-year-old letter carrier, filed a traumatic injury claim alleging that on January 28, 2000 he injured his back when he tried to catch a tray of mail he was lifting when the handle broke. On the reverse side of the claim form, his supervisor, James Weslouski, stated that appellant reported the incident at the time it occurred and stated that he felt a catch or hitch in his back when his tray broke. Appellant stopped work on March 14, 2000 and did not return.

In an accompanying statement, Mr. Weslouski stated that on March 10, 2000 appellant reported to him that he had seen his physician on March 9, 2000 for a physical examination and evaluation for a back injury sustained on January 28, 2000 while loading his vehicle. Appellant related that his physician concluded that he was fine.

Appellant submitted a duty status report with an illegible signature dated March 16, 2000 which noted that appellant was found to have a tender L1 in the SI area due to the alleged employment injury of January 28, 2000 and outlined work restrictions. He further submitted physical therapy treatment records from the Sports and Back Clinic in Bryan, Texas in support of his claim.

On May 3, 2000 the Office of Workers' Compensation Programs advised appellant that additional evidence was necessary, including medical records for treatment obtained between January 28 and March 13, 2000. In response, appellant submitted further physical therapy reports evidencing treatment from March 21, 2000.

By decision dated June 15, 2000, the Office denied the claim on the grounds that the evidence submitted was insufficient to establish that appellant sustained an injury in the

performance of duty as alleged. The Office found that appellant's actions following the alleged incident were inconsistent with the surrounding facts. The Office noted that appellant did not seek medical treatment for his injuries until March 13, 2000, that he did not report the injury via CA-1 until March 9, 2000 and that he continued to work with no apparent problem until March 14, 2000. The Office found that given these inconsistencies, an injury within the meaning of the Federal Employees' Compensation Act was not demonstrated.

The Board finds that appellant failed to meet his burden of proof in establishing that he sustained an injury causally related to his federal employment.

An employee seeking benefits under the 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 an occupational disease.²

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office 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.

The first component to be established is that the employee actually experienced the employment incident, which is alleged to have occurred.³ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁴

In the present case, appellant alleged that he was injured on January 28, 2000 when he tried to catch a tray of mail he was lifting when the handle broke. The evidence of record establishes that appellant reported the injury to his supervisor at the time that the incident occurred. The Board gives great weight to uncontroverted statements by appellant and finds that the employment incident occurred as alleged.

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

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

³ *Elaine Pendleton*, *supra* note 1.

⁴ *See Richard A. Weiss*, 47 ECAB 182 (1995); *John M. Tornello*, 35 ECAB 234 (1983).

The Board further finds, however, that the evidence fails to establish that the condition for which appellant claims compensation is causally related to the January 28, 2000 incident. The only evidence submitted in support of appellant's claim was a duty status report with an illegible signature, and physical therapy reports. Although the duty status report indicated that appellant's lumbar tenderness was related to the alleged work injury, the report is insufficient to establish causal relationship.⁵ An opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. The physical therapy reports submitted in support of his claim are not medical evidence as a physical therapist is not a physician under the Act.⁶

While the Office requested that appellant submit additional factual and medical evidence in order to substantiate his claim, sufficient evidence was not submitted.⁷ Without rationalized medical evidence establishing that appellant's injury was causally related to his federal employment, appellant has not made a *prima facie* case.

The decision of the Office of Workers' Compensation Programs dated June 15, 2000 is hereby modified to find that the employment incident occurred on January 28, 2000, as alleged, but that the evidence failed to establish that appellant's back condition is causally related to the incident, and is affirmed as modified.

Dated, Washington, DC
August 2, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ *Ruth S. Johnson*, 46 ECAB 237 (1994); *Lucrecia M. Nielsen*, 42 ECAB 583, 594 (1991).

⁶ *Thomas R. Horsfall*, 48 ECAB 180 (1996).

⁷ Appellant did submit additional evidence on appeal; however, the Board's jurisdiction is limited to evidence that was before the Office at the time of its decision. 20 C.F.R. § 501.2(c).