

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LARRY E. PRITCHETT and U.S. POSTAL SERVICE,
POST OFFICE, San Bernardino, CA

*Docket No. 01-117; Submitted on the Record;
Issued August 27, 2001*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that he sustained an occupational disease causally related to factors of employment.

The Board has given careful consideration to the issues involved, the contentions of the parties on appeal and the entire case record. The Board finds that the decision of the Office of Workers' Compensation Programs' hearing representative dated March 3, 2000 and finalized March 7, 2000 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.¹ In the decision, the hearing representative affirmed a prior decision that appellant did not sustain an occupational disease causally related to factors of employment. She, however, remanded the cause to the Office for further development in regard to whether appellant's condition was causally related to his January 15, 1990 employment injury.

On March 20, 2000 appellant requested reconsideration and submitted additional evidence. By decision dated July 10, 2000, the Office again denied the claim, finding the evidence insufficient to warrant modification of the prior decision. The instant appeal follows.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the factors identified by the claimant were the proximate cause of the condition for which compensation is

¹ On January 15, 1990 appellant sustained an employment-related right hernia with subsequent repair and right inguinal nerve entrapment. This case was adjudicated by the Office under file number 13-913104. On his return to work he was assigned permanent light duty as a hand stamp clerk. On December 30, 1998 he filed an occupational disease claim, alleging that factors of employment caused him to develop a large mass in his right groin. This case was adjudicated by the Office under file number 13-1185405. The Board has both case records before it.

claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and the identified factors. The belief of appellant that the condition was caused or aggravated by the identified factors is not sufficient to establish causal relation.²

Under the Federal Employees' Compensation Act³ the term "disability" means incapacity, because of employment injury, to earn the wages that the employee was receiving at the time of injury. Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn the wages. An employee who has a physical impairment causally related to a federal employment injury, but who nonetheless has the capacity to earn wages she was receiving at the time of injury, has no disability as that term is used in the Act, and whether a particular injury causes an employee disability for employment is a medical issue which must be resolved by competent medical evidence.⁴

In the present case, there is no dispute that appellant was a federal employee and that he timely filed a claim for compensation benefits. However, the medical evidence is insufficient to establish that he sustained a new employment-related injury because it does not contain a rationalized medical opinion explaining how his groin condition was caused or aggravated by employment factors. With his request for reconsideration, appellant submitted reports from Dr. David L. Vannix, a Board-certified surgeon, who performed endoscopic surgery on appellant on March 2, 2000. His postoperative diagnoses were right femoral hernia and left direct inguinal hernia. In a March 8, 2000 report, Dr. Vannix advised that appellant's right hernia was either incompletely treated by prior operations or, more probably, occurred in large part due to the local effects of the prior operations and their attendant complications. His opinion, thus, clearly indicates that appellant's condition and concomitant surgery were not a new occupational disease but were related to the January 15, 1990 hernia and subsequent repairs. The Board notes that the record contains medical evidence submitted subsequent to the hearing representative's decision finalized on March 7, 2000 and prior to the Office decision denying modification dated July 10, 2000. This evidence, however, again indicates that appellant's condition is related to the January 15, 1990 employment injury and, as the claim regarding any recurrence of disability causally related to this injury is still open, any error by the Office in not considering this evidence is deemed harmless.⁵

The Board, therefore, finds that appellant failed to establish that he sustained an occupational disease causally related to factors of employment.

² *Lourdes Harris*, 45 ECAB 545 (1994).

³ 5 U.S.C. §§ 8101-8193.

⁴ *Maxine J. Sanders*, 46 ECAB 835 (1995).

⁵ *Id.* See generally *Paul A. Clarke*, 43 ECAB 940 (1992).

The decisions of the Office of Workers' Compensation Programs dated July 10 and March 3, 2000 are hereby affirmed.⁶

Dated, Washington, DC
August 27, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ Upon return of the case record, the Office should continue development of the medical evidence with regard to any residuals to the Office's March 3, 2000 decision.