

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TOMAS M. PINEDA and U.S. POSTAL SERVICE,
POST OFFICE, Dallas, TX

*Docket No. 01-1284; Submitted on the Record;
Issued December 28, 2001*

DECISION and ORDER

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

The issue is whether appellant developed a back condition causally related to factors of his federal employment.

On August 18, 2000 appellant, then a 45-year-old mailhandler filed an occupational disease claim alleging that he developed a pinched nerve in his lower back due to pulling, twisting, loading and unloading trucks in the performance of duty. Appellant first became aware of the illness on July 14, 2000 and first realized that the disease or illness was caused or aggravated by his employment on July 27, 2000. Appellant stopped work on August 10, 2000 and returned on August 15, 2000.

In support of the claim appellant submitted personnel documentation from the employing establishment including his health record dated from May 30, 1994 to May 31, 2000 and clinical notes from Dr. Steven Johnson, an osteopath dated July 27, 2000. Appellant further submitted a statement from the employing establishment outlining his work duties and a recommendation for light duty dated August 21, 2000. Appellant also submitted a duty status report with an illegible signature dated August 29, 2000, which described appellant's injury as a pinched nerve in his back and gave a diagnosis of lumbar strain and left sciatica. The form report indicated that appellant was unable to work due to pain and limitation of function.

In a letter dated September 19, 2000, the Office of Workers' Compensation Programs advised appellant that additional factual and medical evidence was needed to make a determination on the claim. The Office requested a detailed description of employment activities believed to have contributed to his condition and other activities in which he was involved outside of his employment. The Office further requested a description of appellant's condition and all previous orthopedic injuries, and a comprehensive medical report from his treating physician which described symptoms, results of examination and diagnosis and contained a medical opinion explaining why the implicated employment factors caused or contributed to the

claimed condition. The Office provided appellant 30 days to submit the requisite evidence, however, appellant did not respond within the allotted timeframe.

By decision dated October 26, 2000, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that the condition was caused by the claimed employment factor as required by the Federal Employees' Compensation Act.

The Board finds that appellant failed to establish that appellant developed a back condition causally related to factors of his federal employment.

An employee seeking benefits under the Act¹ 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 timely filed within the applicable time limitation period 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.² These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition, for which compensation is claimed; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴ Neither the fact that the condition became manifest during a period of federal employment, nor the belief of appellant that the condition was caused or aggravated by his federal employment, is sufficient to establish causal relation.⁵

In this case, the Office accepted that appellant experienced a pinched nerve in his lower back on July 14, 2000 while performing work duties. Appellant however has failed to meet his burden of proof in establishing through medical evidence that his condition was caused by employment factors. Causal relationship is a medical issue, which requires a physician to explain how or why he or she believes that the accident, incident, or work factor caused or affected the physical condition, and the objective findings that support that conclusion.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *David M. Ibarra*, 48 ECAB 218 (1996).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Manuel Garcia*, 37 ECAB 767 (1986).

None of the medical evidence submitted by appellant is sufficient to establish that his back condition was caused or aggravated by his July 14, 2000 employment injury. The only evidence submitted which discusses appellant's claimed condition is a duty status report with an illegible signature dated August 29, 2000. The report simply described appellant's injury as a pinched nerve in his back, gave a diagnosis of lumbar strain and left sciatica and indicated that appellant was unable to work due to pain and limitation of function. By letter dated September 19, 2000, the Office explained to appellant the type of medical evidence necessary to establish that he sustained an injury as a result of the July 14, 2000 incident, however, appellant did not submit any additional medical evidence.⁶ As the record is devoid of any medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by appellant, he has not met his burden of proof.

The decision of the Office of Workers' Compensation Programs dated October 26, 2000 is affirmed.

Dated, Washington, DC
December 28, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

⁶ The Board notes that appellant submitted with his appeal a medical report dated September 5, 2000. The Board's review on appeal is limited to the evidence that was before the Office at the time it issued its final decision. 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).