

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT L. MILLER and U.S. POSTAL SERVICE,
HOWELL MILL POST OFFICE, Atlanta, GA

*Docket No. 00-980; Submitted on the Record;
Issued February 2, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, PRISCILLA ANNE SCHWAB,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has met his burden of proof to establish that he sustained an injury in the performance of duty on December 15, 1998.

On January 6, 1999 appellant, then a 55-year-old mail carrier, filed a traumatic injury claim alleging that on December 15, 1998 he sustained an injury in the form of a broken blood vessel in his stomach. He alleged that he was picking up a tub of flats and his stomach began to hurt. Appellant alleges that he went to the restroom, where he "hit" the floor. He noted that he was taken to the hospital by paramedics where emergency surgery was performed. Appellant stopped work on December 15, 1998.

On March 9, 1999 appellant submitted an unsigned operative report dated December 16, 1998, in which Dr. Darryl J. Tookes, a Board-certified surgeon, advised that appellant "presented to the emergency room with the acute onset of abdominal pain" and "had peritoneal signs on examination, as well as a distended abdomen." Appellant was found to have blood in the abdominal cavity and a hematoma was found over the right kidney, and the retroperitoneal space over this area. Dr. Tookes diagnosed appellant with retroperitoneal bleeding and hematoma with no bleeder identified, and the hematoma was removed by an exploratory laparotomy with evaluation of retroperitoneal hematoma.

On March 23, 1999 the Office of Workers' Compensation Programs requested by letter further information from appellant, including a detailed narrative report from his physician with a detailed explanation as to how the reported work incident caused or aggravated the claimed injury. In a written statement dated April 13, 1999, appellant reiterated that as he was picking up a tub of flats his stomach began to hurt, and as he straightened up, the pain intensified. In this statement, appellant noted that he had not experienced these symptoms prior to December 15, 1998. Appellant also submitted a duplicate of Dr. Tookes' December 16, 1998 report.

By a decision dated November 29, 1999, the Office denied appellant's claim on the grounds that he did not establish the fact of injury. The Office found that, while the incident of December 15, 1998 was established, appellant did not submit medical evidence to support that his injury was caused or triggered by his employment factors.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty on December 15, 1998.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim² including the fact that the individual is an "employee of the United States" within the meaning of the Act³, that the claim was timely filed within the applicable time limitation period of the Act⁴, 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.⁵ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

Causal relationship is a medical issue⁷ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. Moreover, the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁸

In this case, while the December 15, 1998 incident occurred, appellant has not established that the incident resulted in an injury. Dr. Tookes' December 16, 1998 operative report was devoid of a history of the employment incident, and he merely provided operative findings. He did not offer any opinion on the causal relationship if any between the diagnosed

¹ 5 U.S.C. §§ 8101-8193.

² See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.115.

³ See *James A. Lynch*, 32 ECAB 2116 (1980); see also 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *Delores C. Ellyett*, 41 ECAB 922 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁸ *Minnie L. Bryson*, 44 ECAB 713 (1995); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

condition and the employment incident of December 15, 1998. Dr. Tookes' report is, therefore, insufficient to establish that appellant sustained an injury in the performance of duty on December 15, 1998.

The decision of the Office of Workers' Compensation Programs dated November 29, 1999 is affirmed.

Dated, Washington, DC
February 2, 2001

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member

Valerie D. Evans-Harrell
Alternate Member