

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DIEGO A. RAMIREZ and U.S. POSTAL SERVICE,  
POST OFFICE, Arecibo, PR

*Docket No. 00-1108; Submitted on the Record;  
Issued February 14, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, A. PETER KANJORSKI,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met his burden of proof in establishing that he sustained a back injury in the performance of duty.

On October 19, 1999 appellant, then a 52-year-old distribution clerk, filed a notice of traumatic injury, alleging that on April 9, 1999 he was lifting a tray of letters, turned and felt a sharp pain in his back. He stopped work on April 10, 1999 and returned on April 19, 1999.

In support of his claim, appellant submitted a hospital note dated October 21, 1999.

In a letter dated November 9, 1999, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish his claim and requested he submit such evidence. The Office particularly requested that appellant submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific employment factors.

Appellant submitted a factual statement and a statement marked "Exhibit A." The factual statement referred to a pending claim.<sup>1</sup> The document marked "Exhibit A" prepared by him provided a description of the alleged incident. The document noted that appellant did not file a claim immediately after the incident because he was told by management that he could not pursue this claim until his pending claim was adjudicated.

In a decision dated December 14, 1999, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his condition was caused by the alleged injury on April 9, 1999 as required by the Federal Employees' Compensation Act.<sup>2</sup>

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty, causally related to the factors of his federal employment.

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<sup>1</sup> The pending claim, identified as claim number 020707055, is not before the Board.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or his 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 is causally related to the employment injury.”<sup>3</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.<sup>4</sup>

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.<sup>5</sup>

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.<sup>6</sup>

Rationalized medical opinion evidence is medical evidence which 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician’s opinion.<sup>7</sup>

In this case, it is not disputed that appellant was lifting a tray of letters on April 9, 1999. However, the only medical evidence submitted in support of appellant’s case is a hospital note dated October 21, 1999. The note is unclear about a diagnosis and does not state whether a medical condition was caused or otherwise affected by the employment incident. The note refers to October 19, 1999, but does not discuss the date of injury, April 9, 1999. The note does not contain a specific and rationalized opinion on the causal relationship between appellant’s employment and his injury. Further, the note does not provide a complete and accurate history

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<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

<sup>5</sup> *Elaine Pendleton*, *supra* note 2.

<sup>6</sup> *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>7</sup> *James Mack*, 43 ECAB 321 (1991).

of the April 9, 1999 injury findings upon physical examination, a diagnosis or a well-reasoned discussion explaining how appellant's condition is causally related to his employment.

The person seeking compensation benefits has the burden of proof to establish the essential elements of the claim. Appellant has failed to do this. His own unsupported assertion of an employment relationship is not proof of the fact.<sup>8</sup>

The Office specifically advised appellant of the type of medical evidence necessary to establish his claim. The Office also requested specific medical information regarding appellant's condition. Appellant indicated that he went to the hospital on April 10, 1999, but submitted no medical records from this date.<sup>9</sup> He further indicated that he delayed in filing his claim because management informed him that he could not pursue this claim until his pending claim was adjudicated. However, appellant submitted no evidence to substantiate this allegation. The Board finds that appellant has failed to establish that the April 9, 1999 incident resulted in an injury.

The decision of the Office of Workers' Compensation Programs dated December 14, 1999 is hereby affirmed.

Dated, Washington, DC  
February 14, 2001

Michael J. Walsh  
Chairman

A. Peter Kanjorski  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>8</sup> See *Margaret A. Donnelly*, 15 ECAB 40 (1963).

<sup>9</sup> Appellant with his appeal, submitted additional evidence in support of his claim. The Board notes that it cannot consider evidence submitted subsequent to the Office's December 14, 1999 decision as its review of the case is limited to the evidence of record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may, by written request, seek reconsideration by the Office and submit relevant and pertinent evidence at that time. 5 U.S.C. § 8128; 20 C.F.R. § 10.606.