

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOHN W. HOLIFIELD, JR. and DEPARTMENT OF VETERANS AFFAIRS,  
VERTERANS ADMINISTRATION MEDICAL CENTER, Dayton, OH

*Docket No. 00-2740; Submitted on the Record;  
Issued July 9, 2001*

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DECISION and ORDER

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

The issue is whether appellant established that his claimed bilateral shoulder condition is causally related to his federal employment.

On December 8, 1999 appellant, a 50-year-old motor vehicle operator, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he suffered from bilateral shoulder pain as a result of his federal employment. He attributed his condition to pushing and pulling food trucks weighing between 425 and 527 pounds. Appellant further indicated that he loaded and unloaded approximately 40 food trucks per day. He identified September 29, 1999 as the date he first became aware of his employment-related condition. Appellant did not submit any medical evidence in support of his claim.

By letter dated January 20, 2000, the Office of Workers' Compensation Programs requested that appellant submit additional factual and medical information. Appellant was further advised that the case would remain open for approximately 30 days in order to submit the requested information. He did not respond to the Office's request for additional information.

In a decision dated February 25, 2000, the Office denied appellant's claim on the basis that he failed to establish that he sustained an injury as alleged.

On July 6, 2000 appellant requested reconsideration. The Office also received appellant's Veterans Administration medical records covering the period September 1999 through May 2000 and an April 14, 2000 fitness-for-duty evaluation.

By decision dated July 24, 2000, the Office found that, while the record demonstrated that appellant was diagnosed with a bilateral shoulder condition in September 1999, the evidence failed to establish that this condition was employment related. Accordingly, the Office modified its prior decision to reflect a denial based on the failure to establish a causal relationship between the claimed condition and appellant's employment factors.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

In an occupational disease claim, in order to establish that an injury was sustained in the performance of duty, 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 employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the appellant 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.<sup>1</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that the condition was caused, precipitated or aggravated by his employment is sufficient to establish a causal relationship.<sup>2</sup> A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.<sup>3</sup> Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors.<sup>4</sup>

In the instant case, the medical evidence of record fails to establish a causal relationship between appellant's diagnosed condition and his employment. The earliest treatment records dated September 20, 1999 indicate a prior history of injury to the shoulder while appellant was in the service. Although appellant received varying diagnoses of bilateral shoulder sprain, left rotator cuff tendinitis and probable left rotator cuff tear, no physician specifically attributed appellant's condition to his employment. The only reference to appellant's employment appears in the September 29, 1999 treatment records wherein it is noted that appellant stated his pain increased when pushing carts at work. In the absence of rationalized medical opinion evidence establishing a causal relationship between appellant's bilateral shoulder condition and his employment, appellant has failed to demonstrate that he sustained an injury in the performance of duty.<sup>5</sup>

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<sup>1</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>2</sup> *Robert G. Morris*, 48 ECAB 238, 239 (1996).

<sup>3</sup> *Victor J. Woodhams*, *supra* note 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

The July 24, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
July 9, 2001

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member