

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEFA P. CALIXTO and U.S. POSTAL SERVICE,
MUHLENBERG POST OFFICE, Plainfield, NJ

*Docket No. 00-2255; Submitted on the Record;
Issued June 4, 2001*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a recurrence of disability on or about July 24 and December 18, 1998 causally related to her January 23, 1998 employment injury.

On January 23, 1998 appellant, then a 57-year-old letter carrier, was bitten by a dog. She received medical attention that day but did not stop work. She performed limited duty from January 24 through February 2, 1998 and returned to regular duty on February 3, 1998. The Office of Workers' Compensation Programs accepted her claim for dog bite, right arm.

On February 12, 1999 appellant filed a claim indicating that she sustained a recurrence of disability on July 24 and December 18, 1998 as a result of her employment injury. She submitted a December 18, 1998 report from Dr. Enrique Hernandez, a Board-certified neurologist, who related that appellant was treated in November 1998 for a dog bite wound with nerve injury to the right forearm and was currently experiencing severe cervical pain and spasm. He stated that appellant required disability until January 15, 1999.

On January 13, 1999 Dr. Hernandez completed a disability form indicating that appellant was unable to work from December 18, 1998 to February 1, 1999. His diagnosis was "dog bite/reflex sympathetic dystrophy [RSD]."

On March 5, 1999 the Office requested that Dr. Hernandez submit additional information, including an opinion supported by a medical explanation on how the dog bite incident caused or aggravated appellant's current disability.

On March 18, 1999 Dr. Hernandez related that appellant suffered a dog bite as well as a pulling injury to the right forearm on January 23, 1998. She had gradually experienced increasing pain in the forearm with swelling at times and increased pain in the cervical spine area. He related his November 9, 1998 neurological findings, diagnosed traumatic injury to the

superior cutaneous branch of the right radial nerve and prescribed medication for control of early reflex sympathetic dystrophy. Dr. Hernandez stated:

“The patient unfortunately did not do well, experiencing prominent pain of the right forearm and increasing pain of the cervical spine area. Review of the patient’s past medical history did reveal the presence of a preexisting cervical spine injury dating back to 1989, with a herniated dis[c] at the C4-5 level, but this dis[c] herniation was towards the left side. I have questioned the patient concerning this previous injury and she reports that she had experienced significant recovery from that injury and was essentially asymptomatic when the dog bite occurred. The patient’s treatment was adjusted and the addition of Tolectin for control of pain and inflammation was added, as well as, the addition of Ativan for control of anxiety and muscle spasm. The patient was placed on disability beginning December 18, 1998 and allowed to return to work on February 1, 1999, but to restricted duties. The patient was allowed to perform her work, except no lifting or pushing greater than 20 pounds with her right arm.

“In conclusion, this patient has suffered a bite wound to the right forearm, with evidence of traumatic peripheral nerve injury and residual early reflex sympathetic dystrophy, as well as exacerbation of preexisting cervical dis[c] herniation with increased pain, spasm and impaired mobility.”

In a decision dated April 19, 1999, the Office denied appellant’s claim of recurrence. The Office found that Dr. Hernandez did not explain how the RSD resulted from the work incident or the relationship of appellant’s current disability to the original injury on January 23, 1998.

Appellant requested an oral hearing, which was held on October 26, 1999. She submitted treatment notes and disability slips, including an October 1, 1999 light-duty form from Dr. Francisco J. Miranda, a Board-certified orthopedic surgeon, who noted that appellant’s restrictions were permanent and “due to forearm injury with aggravation of shoulder and neck conditions.” Appellant also submitted an October 26, 1999 supplemental report from Dr. Hernandez, who stated that the dog bite on January 23, 1998 was the direct cause of the RSD.

In a decision dated January 12, 2000, the hearing representative affirmed the denial of appellant’s claim. The hearing representative found that Dr. Hernandez provided no medical rationale to support his opinion. Further, based on appellant’s testimony attributing the recurrence to the pushing and pulling involved in her position, the hearing representative found that appellant had not established a recurrence of disability, defined as a spontaneous material change without intervening injury or exposure.

The Board finds that the medical evidence is insufficient to establish that appellant sustained a recurrence of disability causally related to her January 23, 1998 employment injury.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted

injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and who supports that conclusion with sound medical reasoning.¹

Although appellant submitted medical evidence that is supportive of her claim, the record contains no medical opinion that explains from a pathophysiological perspective how the dog bite incident on January 23, 1998 caused or contributed to the diagnosis of early RSD or exacerbated appellant's preexisting cervical disc herniation. Dr. Hernandez reported on the progress of appellant's complaints or symptoms and on his neurological findings, but the Board may not infer a medical rationale. To support his conclusion that the dog bite on January 23, 1998 was the direct cause of appellant's RSD, Dr. Hernandez must incorporate these or other observations into a medical explanation that supports a causal relationship.

Dr. Hernandez also reported that appellant was essentially asymptomatic from her preexisting cervical spine injury when the dog bite occurred, but a temporal relationship is by itself insufficient to establish a causal relationship.² He did not explain the medical connection between the incident of January 23, 1998 and appellant's subsequent cervical condition.

It is not necessary that the evidence be so conclusive as to suggest causal connection beyond all possible doubt. The evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound and logical.³ Because the medical evidence of record is insufficient to establish that the claimed recurrence of disability was causally related to the January 23, 1998 employment injury, the Office properly denied appellant's claim.

¹ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

² When a physician concludes that a condition is causally related to an employment because the employee was asymptomatic before the employment injury, the opinion is insufficient, without supporting medical rationale, to establish causal relationship. *Thomas D. Petrylak*, 39 ECAB 276 (1987).

³ *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein at note 1.

The January 12, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
June 4, 2001

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member