

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROY C. STANFILL and DEPARTMENT OF DEFENSE,
DEFENSE COMMISSARY AGENCY, Goose Creek, SC

*Docket No. 00-1207; Submitted on the Record;
Issued May 16, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained strained rib muscles in the performance of duty on November 24, 1999, as alleged.

On November 30, 1999 appellant, then a 51-year-old meat cutter, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that on November 24, 1999 at 5:45 p.m. he strained his rib muscles while "leaning over meat counter to stock and straighten meat counter." He first received medical care on November 26, 1999 and returned to work on November 30, 1999.

In support of his claim, appellant submitted a November 27, 1999 emergency care unit discharge instruction report from Dr. Michael L. Baird, at Trident Health System's emergency care unit. Dr. Baird noted that appellant should "Call Dr. Thomas Monday to be seen for further evaluation -- take copy of labs -- should be seen sooner if worse fever, vomiting." An after-care instruction report from Dr. Steven Feingold at Columbia Colleton Regional Hospital in Walterboro, SC, advised appellant that he was only treated on an emergency basis and noted:

"We have examined and treated you today on an emergency basis only. This is not a substitute for or an effort to provide, complete medical care. In most cases, you must let your doctor check you again. Tell your doctor about any new or lasting problems.

"The muscles of the low back are put under a lot of strain each day. When any muscle is overstretched it hurts. It tightens hard (spasm) to protect itself. The spasms make the pain worse. You have strained the muscles in your low back. You showed no signs of bone (spine) or nerve (slipped disc) injury."

Appellant was advised to rest, avoid sitting for long periods of time, avoid activities that would hurt his back muscles and to do moderate exercise such as swimming and walking to help

his back feel better. He was prescribed pain medication and antibiotics to treat possible infections. Appellant was further advised to see his family physician in three days.

By letter dated November 16, 1999, the employing establishment controverted appellant's claim. Matthew Grant, appellant's supervisor, stated:

“[Appellant] failed to submit any medical documentation to support his strained rib muscles. There is no report or evidence showing x-ray results or the results of any other diagnostic tests. The medical documentation we have received does not give the physician's opinions, with medical reasons, as to causal relationship between the diagnosed condition[s] and the factors of employment, the extent of disability affecting the employee's ability to work due to the injury or the prognosis for recovery. The medical documentation does contain references to pneumonia and flu shots and the doctor also makes reference to lumbar muscle strain in attached aftercare instructions, but as mentioned, there is no other support for this injury.”

By letter dated January 7, 2000, the Office of Workers' Compensation Programs requested that appellant submit additional information and describe in detail exactly how his injury occurred, the immediate effects, whether another injury was sustained, any similar disability or symptoms before the injury and a medical report from his private physician. A courtesy copy was sent to the employing establishment.

On January 24, 2000 appellant submitted a medical slip from Dr. Robert L. Thomas, his private physician, Board-certified in internal, pulmonary and critical care medicine. Dr. Thomas noted:

“[Appellant] was seen in my office on November 29, 1999 with complaints of back pain and abdominal pain after he was reaching over the meat counter. This was causing musculoskeletal pain, which improved with treatment. [Appellant] also was seen in Trident emergency room for his complaints on November 27, 1999.”

Also attached was a treatment form dated November 29, 1999 from Dr. Thomas indicating that appellant was administered a flu shot and diagnosed with back pain. The report indicated that “This is not a diagnosis just a number change.”

On January 31, 2000 appellant submitted answers to the Office's list of questions. He stated that “the pressure and strain of leaning over the meat counter stocking and straightening it, with my ribs against the meat counter, caused injury to my ribs.” Appellant noted that the pain was mild but increased after leaving work and that he reported it to his work leader the following day and received medical attention the next day. He stated that the pain continued until he received medical attention and that he had not sustained any other injuries between the date of injury and the date he first received medical attention. Appellant further noted that in approximately 1991 he sustained an injury to his back ligaments but could not offer any specifics of the incident.

In an attending physician's report (Form CA-20) dated January 22, 2000, Dr. Thomas diagnosed musculoskeletal pain and opined that "[a]s [appellant] is of short stature, he should not be leaning over the counter and lifting weights." He checked "yes" in response to the question of whether appellant's condition was caused or aggravated by his employment. Dr. Thomas stated that he believed the pain was caused or aggravated after appellant was leaning over a meat counter at work.

By decision dated February 11, 2000, the Office denied appellant's claim on the grounds that he failed to establish that he sustained an injury in the performance of duty. The Office stated:

"The evidence we received consisted of your personal narrative statement, a [F]orm CA-20 ... and other medical documents. Dr. Thomas ... diagnosed 'musculoskeletal pain,' but the mere occurrence of an episode of pain during the workday is not proof of an injury having occurred at work."

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty on November 24, 1999, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act 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.¹ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.²

In a traumatic injury case, in order to determine whether a federal employee actually sustained an injury in the performance of duty, it must first be determined whether "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.³ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁴ The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical 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

¹ *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

² *Victor J. Woodhams*, 41 ECAB 345 (1989).

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁶

The evidence in the present case is not in dispute that the employment incident occurred as alleged, that is, appellant leaned over the counter as alleged. However, the question of whether an employment incident caused a personal injury generally can only be established by medical evidence.⁷

Regarding the diagnosis of appellant's condition, appellant's claim alleged that he had sustained rib muscle strain. In support of his claim, appellant submitted a January 22, 2000 attending physician's report from Dr. Thomas, in which he diagnosed appellant with musculoskeletal pain and back strain after noting that appellant had complaints of back and abdominal pain, as well as rib cage pain. Dr. Thomas contended that appellant's pain started while he was leaning over a meat counter at work. He noted that he treated appellant for muscle cramps and that his pain improved. Dr. Thomas did not support his diagnosis with rationalized medical evidence. He did not explain how he arrived at the diagnosis of musculoskeletal pain and back strain, the objective findings, if any, which led to his diagnosis or how leaning over a counter would cause musculoskeletal pain or back strain.

In order for the diagnosed condition to be covered under the Act, the evidence must demonstrate that the essential element of causal relationship has been met. The question of causal relationship is a medical issue, which usually requires a reasoned medical opinion for resolution. Causal relationship may be established by means of direct causation, aggravation, acceleration or precipitation. None of the evidence submitted offered any medical rationale to explain how leaning over the counter caused musculoskeletal pain and back strain, or explained the mechanics of the injury and the specific body parts affected. Dr. Thomas diagnosed musculoskeletal pain but his medical report offered no medical rationale relating this diagnosis to appellant's employment factors.

Appellant did not submit sufficient medical evidence to establish that his strained rib muscles were sustained in the performance of duty causally related to factors of his employment. None of the reports provide a probative, rationalized medical opinion sufficient to establish that appellant sustained an injury causally related to his employment factors.

⁵ *Id.*

⁶ *Alberta S. Williamson*, 47 ECAB 569 (1996).

⁷ *See supra* note 3.

The decision of the Office of Workers' Compensation Programs dated February 11, 2000 is affirmed.

Dated, Washington, DC
May 16, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member