

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ELINOR WALTON and U.S. POSTAL SERVICE,  
CENTRAL ILLINOIS DISTRICT, Bedford Park, IL

*Docket No. 00-1813; Submitted on the Record;  
Issued May 7, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

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

This is the second appeal before the Board. In a decision issued on August 12, 1998, the Board remanded the case to the Office of Workers' Compensation Programs for reconsideration. The Office had misinterpreted a letter received on March 27, 1997 from appellant to be a request for a second hearing when it was in fact a request for reconsideration.

The facts of the case are as follows, on December 5, 1994 the Office received a traumatic injury claim from appellant, then a 50-year-old data technician, alleging that she suffered a lower back injury on February 1, 1994 from bending, pulling, and dumping mail sacks. On February 24, 1995 the Office denied appellant's claim since the evidence failed to support the fact of an injury. Appellant requested an oral hearing on March 23, 1995 and a hearing was held on December 5, 1995. By decision dated January 30, 1996, the hearing representative affirmed the Office's February 24, 1995 decision.

By letter dated January 16, 1996, appellant submitted an addendum to a medical report from Dr. Asok K. Ray, a Board-certified orthopedic surgeon, dated January 3, 1996, diagnosing her with "recurrent lumbosacral disc degeneration and recurrent lumbosacral sprain." The hearing representative then issued an addendum to his January 30, 1996 decision, again affirming the Office, finding that the additional report submitted by appellant was insufficient to establish that appellant sustained her injury in the performance of duty.

On March 27, 1997 appellant requested reconsideration. She submitted factual evidence, duplicate medical evidence, and a report from her representative. By decision dated February 1, 2000, the Office, in a merit review decision, denied modification since the medical evidence submitted was insufficient to warrant modification of the prior decision.

The Board finds that appellant has not met her burden of proof in establishing that she sustained a lower back injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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.<sup>2</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "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 and place and in the manner alleged.<sup>4</sup> 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.<sup>5</sup>

An employee has not met his or her burden of proof of establishing the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim.<sup>6</sup> Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on an employee's statements in determining whether a *prima facie* case has been established.<sup>7</sup>

In this case, appellant did not notify her employer and did not submit her claim until approximately 10 months after the alleged incident. Appellant submitted a note that she had been treated by Dr. Ashok G. Dholakia on February 7, 1994, but the note only stated that appellant was under his care and did not mention appellant's medical history. In addition, appellant continued to work after her alleged injury without apparent difficulty. These circumstances cast doubt on appellant's statements in determining whether a *prima facie* case has been established.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

<sup>6</sup> *Tia L. Love*, 40 ECAB 586, 590 (1989).

<sup>7</sup> *Samuel J. Chiarella*, 38 ECAB 363, 366 (1987).

Appellant submitted several medical reports from Dr. Ray, in which he diagnosed her with “lumbosacral discogenic disease” and opined that her current problem was an aggravation of a work-related lower back injury she sustained in 1993 and not a new injury. She has not, however, submitted the medical evidence necessary to establish causal relationship between her alleged February 1, 1994 injury and factors of her employment.

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. 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.<sup>8</sup>

Most of the medical reports of record do not address the issue of causal relationship. In a medical report dated February 15, 1994, Dr. Ray stated:

“The patient was seen at my office today complaining bitterly of low back pain, pain in the right leg. She works as a postal worker and returned to work in the night shift but there has been no way that she can continue working. She has severe pain in the back and legs at this time.”

The probative value of this report is limited in that Dr. Ray did not provide a detailed description of appellant’s employment factors and did not explain how medically the performance of appellant’s work activities would have caused or contributed to her lower back condition.

In a report dated January 3, 1996, Dr. Ray stated:

“I am further adding to this report that the patient was seen at my office on February 15, 1994 at which time the patient complained bitterly of low back pain and pain in the right leg. At that time, the patient was working as a postal worker on the night shift but she was having difficulty continuing her work. She was having severe pain in the back and legs at that time.”

Again, Dr. Ray does not offer any opinion or explanation as to how or why appellant’s condition was job related.

As appellant did not submit sufficient rationalized medical opinion evidence causally relating her lower back condition to her employment factors, appellant did not meet her burden of proof.

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<sup>8</sup> *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

The decision dated February 1, 2000 of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
May 7, 2001

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member