

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JULIUS WALKER and FEDERAL EMERGENCY MANAGEMENT
AGENCY, TERRITORY LOGISTICS CENTER, Fort Gillem, GA

*Docket No. 01-382; Submitted on the Record;
Issued September 20, 2001*

DECISION and ORDER

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

The issue is whether appellant met his burden of proof to establish that he sustained a back condition in the performance of duty.

On April 18, 2000 appellant, then a 45-year-old material handler, filed a traumatic injury claim alleging that his right side became sore on March 7, 2000 after two days of releasing latches from the fifth wheel of trailers.¹

In support, appellant submitted evidence including a discharge summary of emergency care dated March 9, 2000 from the South Fulton Medical Center, which noted that appellant was seen that day for hypertension and chest pain. He also submitted a treatment note dated March 14, 2000 from Dr. Kuchela Reddy, a Board-certified internist of the Southern Heart Specialists Group, who saw appellant for his symptoms and diagnosed appellant with atypical chest pain and hypertension. Dr. Reddy noted in a separate disability note that appellant could return to work on March 15, 2000 with restrictions of no lifting and driving. In a March 21, 2000 progress report, he reported that appellant complained of right arm pain for which he prescribed medication.

In a March 27, 2000 report, Dr. Devendra Koganti, another Board-certified internist of the same group noted that appellant was seen with inflammatory pain in the right shoulder, neck and chest radiating to the right arm, which she related appellant experienced for a few weeks. She diagnosed chest pain, which she opined was most likely musculoskeletal in nature and possibly from cervical arthritis or cervical ribs and hypertension.

¹ On May 9, 2000 appellant also filed a CA-7 claim for compensation benefits. The Office of Workers' Compensation Programs has not addressed this claim in the August 8, 2000 decision before the Board and therefore the claim is not of issue in the present appeal.

In a March 31, 2000 report, Dr. Plas James, a Board-certified orthopedic surgeon, reported that appellant had a history of hypertension but otherwise was of usual health until 10 years ago when he developed an insidious onset of neck pain. He related that appellant was treated conservatively and did well until three or four weeks ago when he developed an increasing onset of neck and right arm pain. Dr. James reviewed x-rays of the cervical spine, which revealed C5-6, C6-7 spondylosis with C7 cervical ribs and recommended further diagnostic testing. In an April 24, 2000 operative report, Dr. James reported that appellant had C5-6 and C6-7 herniated disc and spondylosis, degenerative disc disease and instability. He related that, on that day, appellant underwent C5-6 and C6-7 anterior cervical discectomies with fusions and plating and bilateral foraminotomies. In a subsequent medical form dated May 11, 2000, Dr. James noted that appellant was disabled from work from May 11 to June 11, 2000.

Appellant also submitted a CA-20 report from Dr. James dated May 17, 2000 in which he reiterated that appellant had a diagnosis of C5-7 herniations and had undergone C5-7 cervical discectomies with fusion. He noted on the form report appellant's history -- that he was pulling a pin from the fifth wheel of a tractor when the pain began and noted by checking yes that he believed the condition was caused or aggravated by his employment. Dr. James reported that at the time, appellant was totally disabled.

On July 6, 2000 the Office advised appellant that a notice of occupational disease claim should be filed if employment factors caused or contributed to his condition for more than one day. The Office further advised that the only medical evidence submitted which discussed the claimed work injury was an attending physician's report, and that this report was insufficient to establish the claim. The Office advised of the type of evidence necessary to establish the claim and afforded appellant an additional 30 days with which to submit such evidence.

In response, appellant submitted a narrative statement on July 20, 2000 detailing his claimed work injury and medical treatment; however, no further evidence was received.

On August 8, 2000 the Office denied appellant's traumatic injury claim on the grounds that the medical evidence failed to establish a causal relationship between the claimed injury and the medical condition as required by the Federal Employees' Compensation Act.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty.

An employee seeking benefits under the Act² 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 Act³ and that an injury was sustained in the performance of duty.⁴ These

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

are essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

The record contains reports of Drs. Reddy and Koganti, internists of the Southern Heart Specialists Group and from Dr. James, an attending orthopedic surgeon; however, these reports lack probative value on the relevant issue of the present case.⁶ None of the narrative medical reports of record provide an opinion on the causal relationship between appellant's diagnosed condition and the implicated employment factors and therefore the reports are insufficient to establish the claim.

In a form report dated May 17, 2000, Dr. James diagnosed herniated discs at C5-7 and checked boxes indicating that appellant's condition was related to his March 7, 2000 employment injury. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to show causal relationship.⁷ In view of Dr. James' notation that appellant had an insidious onset of neck pain 10 years ago and the lack of a narrative report directly relating appellant's employment activities on the date of the alleged injury to the herniated nucleus pulposus and degenerative disc disease, appellant has submitted insufficient evidence to establish that he sustained a work-related injury that caused his cervical neck condition or necessitated the need for surgery.⁸

An award of compensation may not be based upon surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between his condition and his employment.⁹ To establish causal relationship, appellant must submit a physician's report in which the physician reviews that factors of employment identified by appellant as causing his condition and taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed condition.¹⁰ Appellant failed to submit such evidence and, therefore, failed to discharge his burden of proof.

⁵ *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

⁷ *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

⁸ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (finding that a medical opinion not fortified by medical rationale is of little probative value).

⁹ *William S. Wright*, 45 ECAB 498 (1993).

¹⁰ *Id.*

The decision of the Office of Workers' Compensation Programs dated August 8, 2000 is hereby affirmed.

Dated, Washington, DC
September 20, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member