

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CATHERINE M. TAYLOR and U.S. POSTAL SERVICE,
MAIN POST OFFICE, Kingman, AZ

*Docket No. 01-494; Submitted on the Record;
Issued September 4, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that her miscarriage on November 23, 1999 was causally related to lifting at work.

On November 23, 1999 appellant, then a 40-year-old letter carrier who was two months pregnant, was lifting trays of mail, weighing 10 to 20 pounds, when she began bleeding. She was instructed by her physician's office to go home and lie down. Later that day, she miscarried while at home.¹

In a January 31, 2000 decision, the Office denied appellant's claim on the grounds that appellant had not established that the miscarriage was caused by lifting at work on November 23, 1999. Appellant requested a hearing before an Office hearing representative which was conducted on July 19, 2000. In a September 5, 2000 decision, the Office hearing representative found that the medical evidence submitted by appellant was speculative and therefore insufficient to establish her burden of proof. He therefore affirmed the Office's January 31, 2000 decision.

The Board finds that appellant has not met her burden of proof in establishing that her miscarriage was causally related to lifting at work on November 23, 1999.

A person who claims benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of her claim. Appellant has the burden of

¹ Appellant subsequently claimed that harassment at work by her supervisors caused an increase in blood pressure, which then caused the miscarriage. The Office of Workers' Compensation Programs and the Office hearing representative restricted appellant's claim to her initial contention that the miscarriage was caused by lifting on November 23, 1999. Appellant was instructed to file a separate claim for her contention that the miscarriage was related to harassment or emotional stress at work.

² 5 U.S.C. §§ 8101-8193.

establishing by reliable, probative, and substantial evidence that her medical condition was causally related to a specific employment incident or to specific conditions of employment.³ As part of such burden of proof, rationalized medical opinion evidence showing causal relation must be submitted.⁴ The mere fact that a condition manifests itself or worsens during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁵ Such a relationship must be shown by rationalized medical evidence of causal relation based upon a specific and accurate history of employment incidents or conditions which are alleged to have caused or exacerbated a disability.⁶

In support of her claim, appellant submitted reports from Dr. Joseph H. Tedesco, an osteopath. In a January 12, 2000 report, Dr. Tedesco noted appellant's history of a miscarriage after lifting at work. He indicated that appellant's pregnancy had been uncomplicated until she developed bleeding and cramping on November 23, 1999. He commented that it was hard to say exactly if appellant's lifting was the cause of her spontaneous abortion, but stated that it was a possibility. He concluded, "It is quite possible that process was initiated because of her work activity."

In a February 23, 2000 report, Dr. Tedesco stated:

"Apparently there are some concerns regarding a miscarriage [appellant] had in November 1999. She had been seen initially in this office by Dr. Hodges and at that time her blood pressure was noted to be slightly elevated. She was complaining of increased stress and discomfort at work. Soon thereafter, she developed cramping and bleeding following loading and lifting trays at work. The pregnancy until that point had been uncomplicated. It is likely that these events contributed to the miscarriage although this could never be said with absolute certainty."

In a July 20, 2000 report, Dr. Tedesco stated:

"[Appellant] had an uncomplicated pregnancy until November 23, 1999, when after lifting several trays at work she developed a cramping and bleeding afterwards and subsequently had miscarriage. The increased strain and activity involved in this may have caused some increased pressure and changes resulting in subsequent placental separation and miscarriage. This cannot be said with certainty, however, [the] pregnancy had been going smoothly until this point so that it appears that there was some contributing factor with this."

Dr. Tedesco, in his reports, noted that appellant's pregnancy was developing without complications until she performed lifting at work on November 23, 1999. He stated in his initial

³ *Margaret A. Donnelly*, 15 ECAB 40, 43 (1963).

⁴ *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

⁵ *Juanita Rogers*, 34 ECAB 544, 546 (1983).

⁶ *Edgar L. Colley*, 34 ECAB 1691, 1696 (1983).

report that the lifting possibly caused the miscarriage. In his second report, Dr. Tedesco stated that it was likely that the lifting at work and appellant's increased blood pressure likely contributed to the miscarriage, but added that this could not be said with absolute certainty. In his third report, Dr. Tedesco stated that the increased pressure and changes caused by appellant's lifting might have led to placental separation and miscarriage. He again commented that this could not be said with certainty. Dr. Tedesco's statements were tentative, equivocal and speculative. He was unable to provide an unequivocal opinion of reasonable medical certainty that appellant's miscarriage was causally related to lifting at work on November 23, 1999. His reports therefore have diminished probative value and, as a result, are insufficient to sustain appellant's burden of proof.

The decisions of the Office of Workers' Compensation Programs, dated September 5 and January 31, 2000, are hereby affirmed.

Dated, Washington, DC
September 4, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member