

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JERILYN TAYLOR-JONES and U.S. POSTAL SERVICE,
POST OFFICE, Detroit, MI

*Docket No. 02-2093; Submitted on the Record;
Issued December 23, 2002*

DECISION and ORDER

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

The issue is whether appellant established that her claimed condition is causally related to her employment.

On May 8, 2000 appellant, a 44-year-old modified city carrier,¹ filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that she experienced pain in her neck, upper back and shoulders as a result of her federal employment. She identified April 30, 1996 as the date she first became aware of her illness. Appellant further indicated that on April 27, 1999 she first realized her illness was caused or aggravated by her employment. She ceased working April 12, 2000.

In a statement dated December 2, 1999, appellant explained that she first experienced back pain when she slipped down some stairs while delivering mail in late 1994.² She further stated that she was involved in an employment-related motor vehicle incident on April 30, 1996 that resulted in some back and neck pain. Appellant indicated that she received pain medication and heat treatment for her upper back and shoulders for approximately three weeks following the April 30, 1996 motor vehicle incident. In May 1999, appellant was assigned a clerk's job at the cage area that required stamping "Return to Sender" mail. She stated that her "back was hurting from bumping all that mail." Appellant also reportedly experienced back pain from sorting and delivering mail at two high rise buildings in October and November 1999. Additionally, she stated that the volume of mail for the two buildings was "too heavy" that she had to decline a similar assignment on March 29, 2000.

¹ Appellant's permanent assignment as a modified city carrier stemmed from a March 8, 1995 employment-related knee injury (A9-400802).

² Appellant subsequently identified the correct date of injury as January 6, 1995 (A9-398164).

In a decision dated August 11, 2000, the Office of Workers' Compensation Programs denied appellant's claim based upon her failure to establish a causal relationship between her claimed neck and upper back condition and her employment.

On December 9, 2000 appellant requested reconsideration. The Office denied modification on February 16, 2001. Appellant again requested reconsideration on February 1, 2002 and after reviewing her claim on the merits, the Office denied modification in a decision dated May 7, 2002.

The Board finds that appellant failed to establish that her claimed condition is causally related to her employment.

A claimant seeking compensation under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that any specific condition or disability for work for which she claims compensation is causally related to the employment injury.⁴ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵

On her May 8, 2000 Form CA-2, appellant related her current neck and upper back condition, in part, to a previous employment-related traumatic injury (A9-415469) that occurred April 30, 1996. The record indicates that the left shoulder injury appellant sustained on April 30, 1996 resolved within a matter of weeks and appellant returned to her prior modified duties without additional restrictions. Accordingly, the Office closed appellant's claim regarding the April 30, 1996 injury. If appellant's current condition is causally related to her April 30, 1996 injury, then the proper course of action is to proceed under claim number A9-415469.

Appellant also alleged a more recent onset of neck and shoulder pain in May 1999, which she attributed to "[s]tamping tons of 'Return to Sender' mail." She further stated that a Dr. Sidhu diagnosed left shoulder trapezius strain in December 1999. Appellant, however, did not submit any medical documentation regarding her treatment with Dr. Sidhu.

Dr. Nnemka I. Ekwueme, a Board-certified internist, initially examined appellant on April 5, 2000 and reported a history of complaints of pain in the region of the left scapula dating back to about 1994 when appellant slipped on a flight of stairs while delivering mail. Appellant's pain had reportedly improved until May 1999 when she swerved sharply to avoid a car that had failed to observe a red light. At that time, appellant was diagnosed with a left

³ 5 U.S.C. §§ 8101-8193.

⁴ *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁵ *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id.*

trapezius strain. Dr. Ekwueme further reported that in November 1999 appellant began to experience pain after long days at work. She described appellant's duties as mostly indoor work, sorting and casing mail for about three to six hours a day. Dr. Ekwueme stated that the job involved a lot of overhead work and lifting and after long days at work appellant developed bilateral shoulder and upper back pain. She indicated that appellant's back pain was probably related to a left trapezius strain. Dr. Ekwueme excused appellant from work until April 9, 2000 and imposed restrictions of no overhead work and no lifting greater than five pounds.

In her treatment notes dated April 18, 2000, Dr. Ekwueme reported that appellant continued to have pain in the left trapezius and left side of her neck. She further noted that appellant had been unable to work because of her pain. Dr. Ekwueme diagnosed "[l]eft trapezius strain related to job activities." On April 24, 2000 she noted that appellant's spinal x-ray revealed arthritis in the neck.⁶

In a report dated June 15, 2000, Dr. Ekwueme explained that appellant was predisposed to muscle strain involving her shoulder, back and neck because of her work activities. The noted work activities included, among other things, long-term standing and working the cage area in the station, casing of mail that required repetitive raising of the shoulders and lifting of heavy bundles of mail, continuously on a daily basis. Dr. Ekwueme also noted that a cystic mass was recently found medial to the left scapula and an ultrasound had been scheduled.⁷

The employing establishment arranged a fitness-for-duty examination with Dr. Samuel B. Milton, III, a Board-certified physiatrist. In a report dated June 22, 2000, he stated that appellant showed over amplification of her symptomatology with no object physical findings to explain her symptomatology. Appellant reportedly had a normal neurologic and musculoskeletal examination of the cervical spine. Dr. Milton explained that, other than poor posture, there were no objective physical findings of cervical radiculopathy or any soft tissue injuries that could relate to any type of job activity. In the absence of physical findings on examination, Dr. Milton stated that there was no reason to restrict appellant from her job duties as a sorter or any other type of modified letter carrier.

In a December 4, 2000 report, Dr. Ekwueme stated that, "[f]ollowing extensive investigation and evaluation which have (sic) involved a neurosurgeon and orthopedic specialist, [appellant's] discomfort has been found to be due to degenerative disease of the cervical spine related to old traumatic injuries."

In April 2000, Dr. Ekwueme initially diagnosed "[l]eft trapezius strain related to job activities" and she noted that appellant's x-rays revealed arthritis in the neck. In June 2000, she explained that appellant was predisposed to muscle strains involving her shoulder, back and neck because of her work activities. She also noted the presence of a cystic mass found medial to the

⁶ Dr. Ekwueme did not identify a particular set of x-rays by date and the record does not contain a radiologist's report concerning any x-rays of appellant's spine.

⁷ On August 23 and October 24, 2000 Dr. Ekwueme submitted return to work forms listing restrictions of no lifting in excess of five pounds, no casing or sorting and no overhead work. The October 24, 2000 work release form also included a diagnosis of arthritis of the cervical spine.

left scapula. And most recently in December 2000, Dr. Ekwueme seemingly abandoned her prior diagnosis of a work-related left trapezius strain in favor of a diagnosis of degenerative disease of the cervical spine related to old traumatic injuries. This latter opinion, however, does not identify which traumatic injuries purportedly caused or contributed to appellant's current cervical degenerative disease. Furthermore, Dr. Ekwueme only recently began treating appellant in April 2000; more than five years after her latest employment-related traumatic injury in 1996. Appellant's initial treatment records dated April 5, 2000 described a motor vehicle incident that reportedly occurred in May 1999. Perhaps Dr. Ekwueme intended to refer to appellant's April 1996 motor vehicle incident or maybe she was misinformed regarding appellant's prior medical history. Moreover, while Dr. Ekwueme's recent diagnosis of degenerative disease of the cervical spine is reportedly the product of "extensive investigation and evaluation" involving a neurosurgeon and orthopedic specialist, she did not provide any documentation in support of this diagnosis.

In this instance, the record does not include a rationalized medical opinion establishing a causal relationship between appellant's employment as a modified city carrier and her claimed neck and upper back condition. Dr. Ekwueme offered varying opinions, none of which are particularly well rationalized and Dr. Milton found no objective physical findings to justify restricting appellant from her job duties.

Appellant's counsel contends that she is entitled to wage-loss compensation because the employing establishment inexplicably advised her that her limited-duty job was no longer available. He argues that appellant was in effect laid off from her permanent limited-duty job. According to counsel, appellant was on limited duty due to both her March 8, 1995 knee injury (Claim No. A9-400802) and her April 30, 1996 left shoulder injury (Claim No. A9-415469).

As previously noted appellant's assignment as a modified city carrier was a result of her March 8, 1995 knee injury (Claim No. A9-400802). The position was effective October 10, 1995 and there is no indication from the record that appellant's duties were subsequently modified in any way to accommodate her April 30, 1996 left shoulder injury (Claim No. A9-415469). In fact, appellant noted in her December 2, 1999 factual statement that a physician, who treated her for the April 30, 1996 injury, never gave her "any restrictions." Thus, counsel is incorrect in stating that appellant was on limited duty due to her April 30, 1996 left shoulder injury.

Counsel is also incorrect in stating that the employing establishment withdrew appellant's limited-duty assignment as a modified city carrier. Appellant stated that the employing establishment advised her on April 12, 2000 that it did not have any work for her under the "new restrictions" imposed by Dr. Ekwueme on April 5, 2000. The permanent restrictions imposed as a result of appellant's March 8, 1995 knee injury included, among other things, no lifting in excess of 15 pounds. The modified city carrier position appellant accepted on October 10, 1995 incorporated this restriction. Dr. Ekwueme reduced appellant's lifting to no more than five pounds and she was prohibited any overhead work as a means to accommodate appellant's neck and upper back condition. However, the modified city carrier position did not prohibit overhead work. The employing establishment did not withdraw appellant's job as a modified city carrier, but merely advised that no work was available to accommodate the additional restrictions imposed by Dr. Ekwueme concerning lifting and overhead work.

As the record fails to establish a causal relationship between appellant's claimed condition and her employment, the Office properly denied appellant's claim for compensation.

The May 7, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
December 23, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member