

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KUTINA Y. PRATT and U.S. POSTAL SERVICE,
POST OFFICE, Houston, TX

*Docket No. 01-1418; Submitted on the Record;
Issued February 5, 2002*

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 she was disabled due to a back injury on October 11, 2000.

On October 12, 2000 appellant, then a 28-year-old casual clerk, stated that she sustained an injury to her lower back on October 11, 2000 while carrying trays of mail to the appropriate area in the employing establishment. In an October 11, 2000 duty status report, Dr. James Miravite, a family practitioner, diagnosed low back pain and instructed that appellant be off work until October 13, 2000.

In a November 21, 2000 decision, the Office of Workers' Compensation Programs denied appellant's claim for compensation on the grounds that she had not established that her condition was causally related to her employment injury.

In a November 28, 2000 note, appellant requested a written review of the record by an Office hearing representative. In an April 20, 2001 decision, the Office hearing representative found that appellant had not established that she sustained an injury in the performance of duty on October 11, 2000. The hearing representative noted that appellant gave varying accounts on how she was injured and did not disclose prior back injuries. The hearing representative also pointed out that appellant reported a back injury to one physician and received a treatment for a shoulder injury from another physician.

The Board finds that appellant has not established that she was injured in the performance of duty on October 11, 2001.

To determine whether a federal employee has sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component of fact of injury

is whether the employment caused a personal injury. The second component can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event, incident or exposure, the employee must submit rationalized medical opinion, based on a complete factual and medical background, supporting such a causal relationship.¹ In this case, appellant has not satisfied either component.

In an October 25, 2000 statement, in response to questions from the Office, appellant stated that she injured her back pushing carts of mail and lifting trays of mail out of the carts. However, in a November 20, 2000 investigative memorandum, a postal inspector noted that appellant began work at the employing establishment on October 9, 2000. On October 11, 2000 she refused to cut mail and was found feeding mail on a postal machine. Appellant was instructed to return to the cutting circle. Approximately 20 minutes later, she alleged that she had injured her back. The postal inspector noted, however, that a supervisor overheard appellant stating that she had injured her back before she began work that day. At the medical unit, appellant initially complained of pain in the upper mid back. The nurse indicated that palpation elicited no reports of tenderness. Appellant then complained that the pain was in her lower back. The nurse reported no tenderness in that area. She indicated that appellant had a full range of motion. The postal inspector noted that appellant stated that she had no prior back injury. The inspector, however, reported that appellant had filed workers' compensation claims for lower back injuries on May 17, 1999 while employed by Compaq Computers and on December 3, 1999 while employed by the local public school system. Appellant therefore has not given a credible history of an employment injury on October 11, 2000 as there are inconsistencies in her medical history and the location of the source of pain that cast doubt on her history of injury.

As noted above, Dr. Miravite reported that appellant sustained a back injury on October 11, 2000. However, in a subsequent form, appellant reported to Dr. Anant Mauskar, a Board-certified family practitioner, that she began having sharp pain in her neck and arm while cutting mail on October 11, 2000. In an October 27, 2000 note, Dr. Mauskar indicated that appellant had pain in her shoulder and held her off work until November 11, 2000. In a duty status report, Dr. Mauskar reported that appellant stated that she injured her neck and arm while transporting mail to the elevator and cutting mail. He placed restrictions on appellant's work. Neither Drs. Miravite nor Mauskar gave a detailed opinion how appellant's condition, whether a back or a shoulder condition, was causally related to the October 11, 2000 incident. As each physician received a different history of what appellant injured, it is unclear which physician or whether either physician, received an accurate history of appellant's injury. The medical reports of record, therefore, have little probative value and fall far short of establishing that appellant sustained a disabling injury to either her back or her shoulder that was causally related to the October 11, 2000 incident.

¹ *Michael E. Smith*, 50 ECAB 313 (1999).

The decisions of the Office of Workers' Compensation Programs, dated April 20, 2001 and November 21, 2000, are hereby affirmed.

Dated, Washington, DC
February 5, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member