

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BETTY J. WILKERSON and DEPARTMENT OF HEALTH & HUMAN SERVICES, PUBLIC HEALTH SERVICE, CENTERS FOR DISEASE CONTROL & PREVENTION, Atlanta, GA

*Docket No. 01-1102; Submitted on the Record;
Issued January 10, 2002*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury on November 15, 1999 causally related to factors of her employment.

The Board has reviewed the entire case record in this appeal and finds that appellant has failed to establish that she sustained an injury on November 15, 1999 causally related to factors of her employment.

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.¹ Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that she sustained an injury in the performance of duty and that her disability was caused or aggravated by her employment.² As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.³ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁴ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.⁵

¹ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

² See *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

³ See *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁴ See *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

⁵ *Id.*

On February 8, 2000 appellant, then a 43-year-old secretary, filed an occupational disease claim alleging that she injured her left hip and leg on November 15, 1999 due to packing and unpacking boxes for an office relocation. In a statement dated March 17, 2000, appellant stated that during the office relocation she took all the files from her file cabinet and some files and supplies from her desk, labeled them and stacked them along the wall in preparation for the move. She was absent on the day of the move but unpacked some boxes after the move.

In a statement dated February 28, 2000, Dr. Consuelo M. Beck-Sague, appellant's supervisor, stated that appellant was on leave for weeks before, during and after the office relocation and may have unfolded several boxes and placed some files in boxes, but other employees performed most of the packing.

By decision dated April 11, 2000, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that she had failed to establish that her medical condition was causally related to her employment.

By letter dated May 3, 2000, appellant requested reconsideration.

By decision dated May 16, 2000, the Office denied appellant's request for reconsideration on the grounds that she had failed to submit any new and relevant evidence with her request.

By letter dated December 20, 2000, appellant requested reconsideration and submitted additional evidence.

By decision dated February 6, 2001, the Office denied modification of its April 11, 2000 decision.⁶

In a note dated March 15, 2000, Dr. Maurice Jove stated that he was treating appellant for a central disc protrusion at L5- S1. He did not indicate the cause of the condition. As he did not provide a rationalized medical opinion explaining how appellant's condition was causally related to factors of her employment, this note does not establish that she sustained an employment-related injury.

In a report dated January 27, 2000, Drs. Donald R. Lane and Arthur E. Lesesne diagnosed left hip bursitis. They did not indicate the cause of the condition. This report does not satisfy appellant's burden of proof as it contains no explanation of how her left hip bursitis was causally related to her employment.

A magnetic resonance imaging (MRI) scan report dated March 7, 2000 indicated that appellant had a central disc protrusion at L5-S1. No cause for the condition was indicated and therefore this report does not establish that the condition was causally related to appellant's employment.

⁶ This case contains additional evidence which was not before the Office at the time it issued its February 6, 2001 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).

In a report dated March 23, 2000, Dr. William F. Keeton stated that appellant underwent an epidural steroid and Lidocaine injection for a herniated disc at L5-S1. He noted that appellant felt that the condition was caused by moving boxes but he did not provide his own opinion of the cause of the herniated disc. As Dr. Keeton did not provide a rationalized medical opinion of the cause of the herniated disc, this report does not discharge appellant's burden of proof.

In notes dated February 2 and July 19, 2000, Dr. Jove reported that appellant had low back and flank pain and sciatica and a herniated disc at L5-S1. However, he did not provide any explanation of how these conditions were causally related to appellant's job and therefore this evidence does not satisfy her burden to establish causal relationship.

In a report dated November 8, 2000, Dr. Lesesne stated that appellant had discomfort in her low back and a sciatic type of pain. He noted that his records for January 11, 2000 indicated that she had pain in her left buttocks with radiation into her thigh, which he felt was due to subtrochanteric bursitis. Dr. Lesesne stated, "I do not know if this pain began before or after her injury, which she indicates occurred at her work and involved lifting heavy boxes." He merely related appellant's opinion as to the cause of her condition and did not provide any medical rationale explaining how her condition was causally related to factors of her employment. Therefore, the report does not discharge appellant's burden of proof.

The decisions of the Office of Workers' Compensation Programs dated February 6, 2001 and May 16 and April 11, 2000 are affirmed.

Dated, Washington, DC
January 10, 2002

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member