

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GEORGE N. MARLEY and U.S. POSTAL SERVICE,  
POST OFFICE, Artesia, CA

*Docket No. 00-2135; Submitted on the Record;  
Issued July 22, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,  
A. PETER KANJORSKI

The issue is whether appellant sustained a double hernia and a cyst below his left shoulder blade in the performance of duty.

On February 3, 2000 appellant, then a 56-year-old former letter carrier, filed a notice of traumatic injury and claim for continuation of pay/compensation, Form CA-1, alleging that on January 5, 1999 he sustained a double hernia, caused by walking and bending while carrying too much weight. Appellant also claimed that he sustained a cyst under his left shoulder blade, caused by the rubbing of the shoulder strap and the backrest of the mail jeep. On the reverse of the form, appellant's supervisor indicated that appellant was terminated on February 5, 1999.

In a February 16, 2000 letter, the Office of Workers' Compensation Programs advised appellant that the information submitted in his claim was not sufficient to determine whether he was eligible for benefits under the Federal Employees' Compensation Act.<sup>1</sup> The Office advised appellant of the additional medical and factual evidence needed to support his claim. In particular, appellant was directed to provide a comprehensive medical report from his treating physician.

Appellant submitted a personal statement in support of his appeal, in which he responded to the questions posed in the Office's February 16, 2000 letter. Appellant indicated that his physician's report would be sent after a doctor's appointment on March 17, 2000.

By decision dated March 28, 2000, the Office denied appellant's claim. The Office found that appellant failed to submit evidence in response to the Office's February 16, 2000 letter and, therefore, the record failed to demonstrate that he sustained any injury on January 5, 1999, as alleged.

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<sup>1</sup> 5 U.S.C. §§ 8101-8103.

On April 18, 2000 appellant filed a request for reconsideration. Appellant also forwarded a copy of a March 17, 2000 medical report from Dr. Irina Gaal, Board-certified in emergency medicine, who noted that appellant sustained “bilateral inguinal hernias, status post endoscopic repair with no residual symptoms and a healed sebaceous cyst on his back.” Dr. Gaal opined that “it is possible” that appellant’s hernia condition was sustained as a result of twisting and bending while “loading up” with a heavy satchel of mail. In regard to appellant’s cyst, she opined that it was a nonindustrial condition, as it was not related to any work-related activities.

By letter dated May 10, 2000, the Office issued its decision on reconsideration and modified the Office’s March 28, 2000 denial of claim. The Office found that the evidence appellant submitted established that he did, in fact, sustain a double hernia. The Office found, however, that appellant did not establish that a causal relationship existed between his double hernia and his federal employment. On the issue of appellant’s sebaceous cyst, the Office held with Dr. Gaal’s opinion that the cyst was a nonindustrial condition and that the “mere fact that a condition manifests itself or is worsened during a period of employment does not raise an inference of causal relationship between the two.”<sup>2</sup>

The Board finds that appellant has not met his burden of proof in establishing that he sustained a double hernia and a sebaceous cyst, causally related to his federal employment.

An employee seeking benefits under the Act 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 Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>3</sup> These are essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

In order to determine whether an employee actually 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 which 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.<sup>5</sup>

The second component is whether the employment incident caused a personal injury and generally 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 or

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<sup>2</sup> *William Nimitz, Jr.*, 30 ECAB 567 (1979).

<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *Daniel J. Overfield*, 42 ECAB 718, 721 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Elaine Pendleton*, *supra* note 3.

incident, the employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>6</sup>

In this case, appellant has been diagnosed with both a double hernia and a sebaceous cyst on his back. However, there is insufficient evidence to establish that he sustained either injury on January 5, 1999. The medical report from Dr. Gaal established the diagnosis of bilateral inguinal hernia and a sebaceous cyst, but it does not support appellant's contention that he sustained these injuries on January 5, 1999. Additionally, Dr. Gaal opined that "it is possible" that appellant sustained a hernia as a result of his federal employment. Dr. Gaal also opined that appellant's cyst is a nonindustrial condition and not related to his working conditions. As appellant has not submitted medical evidence establishing any specific injury on January 5, 1999, he has not met his burden of proof in establishing that his injuries are causally related to his federal employment.

The decisions of the Office of Workers' Compensation Programs dated May 10 and March 28, 2000 are affirmed.

Dated, Washington, DC  
July 22, 2002

Michael J. Walsh  
Chairman

Colleen Duffy Kiko  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>6</sup> See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).