

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROY L. HAIRE and U.S. POSTAL SERVICE,
POST OFFICE, Takoma, WA

*Docket No. 01-1758; Submitted on the Record;
Issued May 24, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden of proof to establish that he sustained a right upper extremity condition in the performance of duty.

On August 28, 1999 appellant, then a 50-year-old letter carrier, filed a claim alleging that he sustained a right upper extremity condition due to opening a mailbox at work on that date. Appellant indicated that he felt a “jolt” while opening the mailbox and that he experienced numbness and tingling in the fingers of his right hand and pain between the shoulder and elbow of his right arm.¹

The Board finds that the case is not in posture for decision regarding whether appellant met his burden of proof to establish that he sustained a right upper extremity condition in the performance of duty.

An employee who claims benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his claim.³ The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background,

¹ Appellant later indicated that on August 28, 1999 he yanked on a curbside mailbox which was stuck and that it suddenly gave way causing his arm to go straight down and hit the bottom of the window frame in his vehicle. Appellant had an undeveloped claim from August 1995 which involved an alleged impingement of his right shoulder due to repetitive work duties. He was working in a limited-duty job at the time of the August 28, 1999 injury.

² 5 U.S.C. §§ 8101-8193.

³ *Ruthie Evans*, 41 ECAB 416, 423-24 (1990); *Donald R. Vanlehn*, 40 ECAB 1237, 1238 (1989).

establishing causal relationship.⁴ However, it is well established that proceedings under the Act are not adversarial in nature, and while the claimant has the burden to establish entitlement to compensation, the Office of Workers' Compensation Programs shares responsibility in the development of the evidence.⁵

Appellant submitted an August 28, 1999 report in which Dr. Carl Peterson, an attending Board-certified internist, indicated that appellant reported feeling a jolt in his right arm while opening a mailbox on that date. Dr. Peterson diagnosed tendinitis due to the reported injury. In a report dated September 7, 1999, Dr. Peterson noted that appellant reported that, after opening mailboxes on August 28, 1999, he experienced numbness and tingling in the fingers of his right hand (except for his index finger) and pain between the shoulder and elbow of his right arm.⁶ Dr. Peterson diagnosed sensory neuropathy of the ulnar nerve and checked a box indicating that the diagnosed condition was due to the reported employment activity. In a report dated October 14, 1999, Dr. Richard Camp, an attending Board-certified orthopedic surgeon, indicated that appellant reported an injury to his right upper extremity due to opening a mailbox and catching his finger on August 28, 1999. Dr. Camp noted that appellant sustained a "probable contusion of right ulnar nerve" due to this employment incident.⁷

The Board notes that, while none of the reports of appellant's attending physicians are completely rationalized, they are consistent in indicating that appellant sustained an employment-related right upper extremity condition on August 28, 1999, and are not contradicted by any substantial medical or factual evidence of record. Therefore, while the reports are not sufficient to meet appellant's burden of proof to establish his claim, they raise an uncontroverted inference between appellant's claimed condition and the employment incident of August 28, 1999, and are sufficient to require the Office to further develop the medical evidence and the case record.⁸

Accordingly, the case will be remanded to the Office for further evidentiary development regarding the issue of whether appellant sustained an employment-related injury of his right upper extremity on August 28, 1999. The Office should prepare a statement of accepted facts and obtain a medical opinion on this matter. After such development of the case record as the Office deems necessary, an appropriate decision shall be issued.

⁴ *Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

⁵ *Dorothy L. Sidwell*, 36 ECAB 699 (1985); *William J. Cantrell*, 34 ECAB 1233 (1983).

⁶ He also indicated that appellant reported ulnar parathesias after the twisting injury to his right upper extremity.

⁷ Dr. Camp also indicated that appellant sustained right shoulder tendinitis and suspected mild impingement syndrome due to overhead use of his arms at work in August 1995.

⁸ *See Robert A. Redmond*, 40 ECAB 796, 801 (1989).

The decision of the Office of Workers' Compensation Programs dated and finalized June 20, 2000 is set aside and the case remanded to the Office for further proceedings consistent with this decision of the Board.

Dated, Washington, DC
May 24, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member