

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GWYN T. STONE and U.S. POSTAL SERVICE,  
POST OFFICE, Atlantic Beach, NC

*Docket No. 01-2209; Submitted on the Record;  
Issued May 15, 2002*

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DECISION and ORDER

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

The issue is whether appellant met her burden of proof to establish that she sustained a lower back injury in the performance of duty.

Appellant, a 48-year-old rural carrier, filed a claim for benefits on October 25, 1999, alleging that she injured her lower back while picking up a bucket of flat mail on October 21, 1999. In support of her claim, appellant submitted a November 15, 1999 report from Dr. John C. Rickabaugh, a family practitioner, who noted that appellant had undergone lumbar surgery for her chronic low back pain, which had been worsened significantly since her recent work-related injury, but made no findings pertaining to the October 21, 1999 work accident. He also submitted disability slips dated October 25 and December 8, 1999.

Appellant also submitted a November 23, 1999 report from Dr. John R. Leonard, a Board-certified neurological surgeon, who noted that a magnetic resonance imaging (MRI) scan of the lumbar region showed postoperative changes at L3-4 and L5, but showed no evidence of spinal stenosis or nerve root compression at any level. He advised that appellant had back strain by history with an examination which suggested significant functional overlay. Dr. Leonard advised that he had nothing to suggest to appellant from a neurological standpoint.

By decision dated February 8, 2000, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the October 21, 1999 employment incident did not result in a personal injury or disability.

By letter dated March 4, 2000, appellant requested reconsideration. She submitted a December 6, 1999 report from Dr. Joshua D. Schwartz, Board-certified in anesthesiology and internal medicine, who stated findings on examination, noted appellant's complaints of low back

pain and reiterated Dr. Leonard's impression of postoperative changes at L4-5 with bilateral recessed stenosis and no evidence of spinal stenosis or nerve root impingement at that level. Dr. Rickabaugh submitted a February 17, 2000 report in which he stated:

"On October 25, 1999 [appellant] presented to my office for evaluation and treatment of back pain that was the result of an on-the-job injury that occurred October 21, 1999.... Prior to this injury she had been dealing effectively with chronic back pain using medications. After this injury, she had significant exacerbation of pain requiring additional medical treatment and further evaluation by me, by her neurosurgeon and by a pain management specialist. While it is true that [appellant] has had preexisting back problems, it is clear to me that these symptoms were under satisfactory control prior to October 21, 1999 when she reinjured her back."

By decision dated April 14, 2000, the Office denied reconsideration.

By letter dated July 27, 2000, appellant's attorney requested reconsideration. Appellant submitted reports dated May 8, June 6 and July 19, 2000 from Dr. Rudolph J. Maier, Board-certified in psychiatry and neurology, who stated findings on examination and generally attributed appellant's complaints of back pain to the October 21, 1999 work incident, but did not submit a probative, rationalized medical opinion indicating she sustained a personal injury or disability causally related to the October 21, 1999 accident.

By decision dated November 27, 2000, the Office denied reconsideration.

By letter dated March 9, 2001, appellant's attorney requested reconsideration. Appellant submitted a February 22, 2001 report from Dr. Maier, who stated:

"As to the type of injury [appellant sustained on October 21, 1999] it would be expected to produce the kind of muscle ligament strain that I believe has initiated her chronic painful condition. This has to do with the facet joints and at least the left sacroiliac joint and its surrounding ligaments."

Dr. Maier further stated:

"I also paid close attention to other factors such as exaggeration, her upset with the [employing establishment] and the like. I continue to feel that 'perception of pain is a brain function' and that her perception of how she was injured and how she has been treated since are very important."

By decision dated June 12, 2001, the Office denied reconsideration.

The Board finds that appellant did not meet her burden of proof to establish that she sustained a lower back injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing that 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>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>4</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>5</sup> The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>6</sup>

In this case, it is uncontested that appellant experienced the employment incident at the time, place and in the manner alleged. However, the question of whether an employment incident caused a personal injury generally can be established by medical evidence<sup>7</sup> and appellant has not submitted rationalized, probative medical evidence to establish that the employment incident on October 21, 1999 caused a personal injury and resultant disability.

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>8</sup> Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> *Id.* For a definition of the term "injury," see 20 C.F.R. 10.5(a)(14).

<sup>6</sup> *Id.*

<sup>7</sup> See *John J. Carlone*, *supra* note 4.

<sup>8</sup> See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

establish causal relationship.<sup>9</sup> Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence in the present case. Appellant submitted several reports from Drs. Maier and Rickabaugh which stated findings on examination and generally attributed her complaints of low back pain to the October 21, 1999 employment incident, but these did not contain a rationalized medical opinion demonstrating that appellant's diagnosed condition was causally related to her October 21, 1999 employment injury. The Office advised appellant of the type of evidence required to establish her claim; however, appellant failed to submit such evidence. Accordingly, as appellant failed to submit any probative medical evidence establishing that she sustained a lower back injury in the performance of duty, the Office properly denied appellant's claim for compensation.

The decisions of the Office of Workers' Compensation Programs dated June 12, 2001 and November 27, 2000 are hereby affirmed.

Dated, Washington, DC  
May 15, 2002

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>9</sup> *Id.*