

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JEFFREY M. RAY and U.S. POSTAL SERVICE,
POST OFFICE, Mentor, OH

*Docket No. 02-1701; Submitted on the Record
Issued November 12, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
WILLIE T.C. THOMAS

The issue is whether appellant established that his shoulder and neck conditions were causally related to work factors, thus entitling him to disability compensation from October 24, 2000 through March 21, 2001.

Appellant's claim filed on November 29, 2000 alleged that overuse and repetitive motion of his neck and right shoulder from casing and delivering mail had caused severe pain. The Office of Workers' Compensation Programs accepted the claim for right shoulder and cervical strains, based on the February 8, 2001 report of Dr. Antony M. George, a practitioner in preventive medicine.

On April 20, 2001 the Office informed appellant that his claim for compensation from October 24, 2000 through March 21, 2001 would not be processed because there was no medical evidence that he was totally disabled during that period. The Office added that the record contained disability slips that stated appellant could work with restrictions and asked appellant to provide a narrative report from his physician discussing why he was unable to work during that period.

On July 19, 2001 the Office denied appellant's claim on the grounds that the medical evidence failed to establish that appellant's disability for work was related to the accepted shoulder and neck strains. The Office noted that it had authorized right rotator cuff surgery and informed appellant that he could claim wage-loss compensation for disability due to the surgery by filing a CA-7 form and a physician's report.¹

¹ Appellant had surgery to repair his right shoulder rotator cuff on July 18, 2001. The Office authorized physical therapy and paid appropriate compensation. Appellant accepted a limited-duty job offer on August 7, 2001 and returned to work on November 29, 2001.

Appellant requested an oral hearing, which was held on January 14, 2002. He testified that his shoulder began hurting in November 1999 after he slipped on ice and caught himself before falling but he did not file a claim at that time. Appellant stated that the employing establishment failed to provide him light duty in October 2000 necessitated by his neck and shoulder problems. He added that, after his claim was accepted, the employing establishment offered him a limited-duty position in March 2001, explaining that, once workers' compensation was involved, the employing establishment offered limited duty, not light duty, to injured workers.

On May 6, 2002 the hearing representative denied the claim on the grounds that appellant had failed to provide a rationalized medical report establishing that his inability to work from October 24, 2000 to March 21, 2001 was causally related to the accepted shoulder and neck strains.

The Board finds that appellant has failed to meet his burden of proof in establishing that his disability during the claimed period was causally related to the accepted work injuries.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim,³ including the fact that the individual is an "employee of the United States" within the meaning of the Act,⁴ that the claim was timely filed within the applicable limitation period of the Act,⁵ that an injury was sustained in the performance of duty as alleged, and that any disability or condition for which compensation is claimed is causally related to the employment injury.⁶ These elements must be established regardless of whether the claim is for a traumatic injury or an occupational disease.⁷

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition or disease; and (3) medical evidence establishing that the employment factors were the proximate cause of the disease or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant.⁸

² 5 U.S.C. §§ 8101-8193.

³ *Irene St. John*, 50 ECAB 521, 522 (1999).

⁴ *Barbara L. Riggs*, 50 ECAB 133, 137 (1998).

⁵ *Albert K. Tsutsui*, 44 ECAB 1004, 1007 (1993).

⁶ *David M. Ibarra*, 48 ECAB 218 (1996); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ *Ruth Seuell*, 48 ECAB 188, 192 (1996).

⁸ *Arturo Adame*, 49 ECAB 421, 4242 (1998); 20 C.F.R. § 10.5(q) (defining an occupational disease or illness as "a condition produced by the work environment over a period longer than a single workday or shift.")

Causal relationship is a medical issue,⁹ and the medical evidence required to establish a causal relationship, generally, is rationalized medical evidence. This consists of a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.¹⁰ 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.¹¹ The mere fact that a condition manifests itself during a period of employment does not raise an inference that the condition is causally related to work factors.¹²

In this case, the record contains an October 20, 2000 letter from appellant requesting light duty due to illness. The letter states: "This is not a job-related illness." Appellant noted lifting restrictions of five pounds from October 19 through October 27, 2000. He applied for family leave for a serious health condition -- he was diagnosed with temporomandibular joint (TMJ) syndrome in 1988 and had been off work intermittently since March 21, 2000 when two teeth were extracted due to infection.

His physician, Dr. Shreemwas Lele, a practitioner in internal medicine, returned him to work on October 2, 2000 with restrictions for a nonwork-related condition until November 19, 2000 and referred him to Dr. George. Dr. Lele stated in an October 24, 2000 letter that he saw appellant on September 25, 2000 when he complained of multiple medical problems which left him weak and fatigued, with diffuse muscular pain. He stated that appellant suffered from chronic conditions and could not carry on his duties. Dr. Lele reported follow-up visits on October 9, 18 and 24, 2000 when appellant felt better and showed a desire to go back to work.

On November 27, 2000 Dr. George completed a form returning appellant to work on December 4, 2000 for an unspecified "work-related condition" with lifting restrictions and the notation, "casing mail only." On January 8, 2001 he signed a similar form returning appellant to work after an electromyography (EMG) revealed possible low-grade cervical radiulopathies and nerve conduction studies showed possible right ulnar neuropathy.¹³ On January 31, 2000 Dr. George repeated his restrictions.

On February 8, 2001 Dr. George stated that appellant was referred to his office for complaints of neck, shoulder and jaw pain. He opined that appellant's symptoms could be the result of the repetitive trauma of casing and carrying mail on routes where appellant described several episodes of slipping and falling, particularly in December 1999. Dr. George interpreted the MRI as showing a partial rotator cuff tear and noted that the healed fracture of appellant's

⁹ *Elizabeth Stanislav*, 49 ECAB 540, 541 (1998).

¹⁰ *Duane B. Harris*, 49 ECAB 170, 173 (1997).

¹¹ *Gary L. Fowler*, 45 ECAB 365 (1994).

¹² *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

¹³ A magnetic resonance imaging (MRI) scan done on September 30, 2000 showed a healed fracture of the right shoulder and minimal foraminal encroachment at C4-5, with no other abnormalities.

clavicle was not related to his work duties. Dr. George did not discuss any disability for work. On February 23, 2001 Dr. George completed a form stating that appellant could work with restrictions. On March 26, 2001 he signed a similar form.

On April 23, 2001 appellant informed the Office that the employing establishment told him that work within his medical restrictions was not available and that he was not allowed to return to work until his claim had been adjudicated. He explained the discrepancy in dates on his claim forms, noting that on December 18, 1999 he had sought treatment for the pain and spasms in his neck and right shoulder and that in October 2000 his physician had referred him to Dr. George.

On May 30, 2001 the Office asked the employing establishment to provide written evidence showing that a limited-duty job offer had been made during the claimed period of disability. The employing establishment responded that no limited duty was offered to appellant because of his October 20, 2000 note and medical documentation stating that his illness was not job related. Further, the employing establishment noted an October 4, 2000 letter from appellant and his wife stating that he had an appointment on October 25, 2000 with Dr. Lele, who stated that appellant would need surgery for his TMJ syndrome.

The record contains no medical evidence establishing that any partial or total disability during the claimed period was related to appellant's accepted shoulder and neck strains or the diagnosed rotator cuff tear, which was not repaired until July 2001. The status report notes covering the period of claimed compensation, including Dr. George's, indicated that appellant could work within certain restrictions but they did not state what diagnosis was the cause of the restrictions. While the Office accepted appellant's shoulder condition and neck strain as work related, appellant provided no medical evidence that these conditions disabled him from October 24, 2000 through March 21, 2001.

The fact that these conditions may have coexisted with appellant's other multiple chronic health problems is insufficient to establish that the accepted conditions caused any disability for work.¹⁴ Therefore, the Board finds that appellant has failed to meet his burden of proof to establish the requisite causal relationship between his accepted work injuries and his work stoppage during the claimed period of disability.

¹⁴ See *Thomas A. Farber*, 50 ECAB 566, 570 (1999) (finding that a physician's opinion that appellant's herniated disc could have been caused by bending at work was insufficient to establish that work factors caused his back condition).

The May 6, 2002 and July 19, 2001 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
November 12, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member