

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BRIAN IWANAGA and U.S. POSTAL SERVICE,
HAWAII KAI POST OFFICE, Honolulu, HI

*Docket No. 02-187; Submitted on the Record;
Issued October 24, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty.

On October 13, 2000 appellant, then a 46-year-old postal clerk, filed a notice of traumatic injury alleging that on September 23, 2000 he felt a pull in his groin when lifting a heavy parcel. Dr. Gary L. Greenly diagnosed appellant with left inguinal hernia on October 2, 2000. By letter dated November 27, 2000, the Office of Workers' Compensation Programs informed appellant that he should submit additional evidence to support his claim.

By decision dated December 29, 2000, the Office denied appellant's claim finding that the factual and medical evidence of record was insufficient to establish that an injury occurred as alleged.

Subsequent to the Office's decision, appellant submitted an operative report indicating that he underwent left inguinal hernia repair and responses to the Office's questions. Under 20 C.F.R. § 501.2(c), the Board's review of a case is limited to the evidence in the case record which was before the Office at the time of its final decision. Thus, the Board cannot consider the evidence received after the Office's December 29, 2000 decision.

The Board finds that, although appellant was lifting at work at the time alleged, he has not met his burden of proof to establish that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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

¹ 5 U.S.C. §§ 8101-8193.

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.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To determine whether an 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.⁴ 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.⁵ An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or a specific condition for which compensation is claimed are causally related to the injury.⁶

The medical evidence required to establish a causal relationship is rationalized medical opinion 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.⁷

In this case, appellant claimed that he felt a pull in his groin on September 23, 2000 while lifting a heavy parcel. Ken Kihara, an agency supervisor, stated that appellant told him that he felt his initial pain while working on his wife’s car. Nevertheless, the Board has found that an employee’s statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.⁸ The Board concludes that appellant was lifting in the performance of duty as alleged. The Board will thus consider the medical evidence. Although appellant did submit medical evidence diagnosing him with left inguinal hernia, he did not submit a rationalized medical opinion report relating his hernia to the incident on September 23, 2000. There are no reports of record which address causal relationship or factors of appellant’s employment. A claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

⁵ *Id.* For a definition of the term “injury,” see 20 C.F.R. § 10.5(a)(14).

⁶ *Frazier V. Nichol*, 37 ECAB 528 (1986).

⁷ *Supra* note 3.

⁸ *Doyle W. Ricketts*, 48 ECAB 167 (1996).

for which compensation is claimed was caused or adversely affected by employment factors.⁹ 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.¹⁰

Since the medical evidence does not establish a causal relationship between appellant's left hernia and his employment, appellant has not met his burden of proof in establishing his claim.

The December 29, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed as modified.

Dated, Washington, DC
October 24, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

⁹ *Ronald C. Hand*, 49 ECAB 113 (1997).

¹⁰ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).