

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CLIFFORD BRENWALD and U.S. POSTAL SERVICE,
POST OFFICE, Ashtabula, OH

*Docket No. 02-1531; Submitted on the Record;
Issued February 20, 2003*

DECISION and ORDER

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

The issue is whether appellant sustained an injury causally related to factors of his federal employment.

On March 28, 2001 appellant, then a 52-year-old letter carrier, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that he sustained a herniated disc in his lower back and resulting nerve damage to his left leg as a result of his federal employment. Specifically, appellant alleged that on December 26, 2000 he developed pain in his left lower back and down the front of his left thigh, and that by December 28, 2000 the pain had become unbearable. He indicated that, on the morning of December 26, 2000, he went without incident, but that while retrieving a large parcel from his truck when delivering the mail, he felt a sharp pain in his lower back. Appellant noted that the pain became worse every time he went to retrieve a parcel from the truck. He submitted witness statements in support of the fact that he complained of pain at this time.

Appellant sought treatment from Dr. David R. Blatt, a Board-certified neurosurgeon. On February 21, 2001 Dr. Blatt performed a left L2-3 laminotomy and left L2-3 and L3-4 lateral extraforminal discectomies on appellant. In a form report dated April 2, 2001, Dr. Blatt responded to the comment, "This diagnosis is causally related to this industrial accident" by checking the box marked "yes," but he did not provide any explanation. On April 12, 2001 Dr. Blatt stated that appellant was able to return to work effective April 16, 2001 with restrictions of limited repetitive lifting of 10 pounds or less, and that he should avoid prolonged standing, bending, stooping, climbing and squatting.

In a decision dated August 6, 2001, the Office of Workers' Compensation Programs denied appellant's claim, as it found that appellant had not met the requirements for establishing that his condition was causally related to employment factors.

By letter dated August 28, 2001, appellant, through his attorney, requested a hearing. The hearing was held on January 14, 2002 at which time appellant described the activities of his

day at work on December 26, 2000 and described the pain he felt at the end of the day. Appellant also noted that he first saw the doctor on December 28, 2000 and described the subsequent course of his medical treatment. Appellant noted that he returned to work in April and that, although he has some residual problems, he has been able to work since that time.

After the hearing, appellant submitted a January 17, 2002 report by Dr. Blatt, wherein he noted that he first saw appellant on January 15, 2001, that appellant was taken to surgery on February 21, 2001 and that he did well after surgery. He noted that appellant did not describe any specific injury or event at work that precipitated his problems, and noted that appellant did not give him any work-related history at the time of his initial evaluation.

In a decision dated April 15, 2002, the hearing representative affirmed the Office's denial of appellant's claim, noting that there was no rationalized medical evidence in support of appellant's contention that the employment factors he described caused or aggravated his back condition.

The Board finds that appellant has not established that he sustained an injury in the performance of duty.

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 presence or 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 presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.¹ 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.² 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.³

The Board notes that appellant contended that his injury was the result of the cumulative effect of the various duties he performed as part of his federal employment, and in particular, the letter carrier duties he performed on a particularly busy day in December 2000. There is medical evidence indicating that appellant had a disc herniation and lumbar stenosis for which appellant underwent surgery on February 21, 2001. The record also contains a form report dated April 2,

¹ *Manuel Gill*, 52 ECAB ____ (Docket No. 99-915, issued March 2, 2001).

² *Claudio Vazquez*, 52 ECAB ____ (Docket No. 01-416, issued August 30, 2001).

³ *Patricia J. Glenn*, 53 ECAB ____ (Docket No. 01-65, issued October 12, 2001); *Victor J. Woodhams*, 41 ECAB 345 (1989).

2001 wherein Dr. Blatt indicated that appellant's condition was causally related to an industrial accident. However, Dr. Blatt provided no explanation as to how appellant's injury is related to his work. Furthermore, despite the fact that Dr. Blatt initially evaluated appellant on January 15, 2001, less than one month after appellant contended that the work-related disability commenced, Dr. Blatt noted that at the time of his initial evaluation appellant did not give any work-related history nor did he fill out a work injury information sheet at that time. Accordingly, the medical evidence submitted by appellant is insufficient to show that he sustained an injury as a result of his employment, as appellant did not initially describe a work injury to Dr. Blatt and as Dr. Blatt never noted appellant's specific employment duties and never described how these duties resulted in appellant's disc herniation or lumbar stenosis.

The decisions of the Office of Workers' Compensation Programs dated April 15, 2002 and August 6, 2001 are hereby affirmed.

Dated, Washington, DC
February 20, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member