

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID L. McGLASSON and DEPARTMENT OF THE AIR FORCE,
WILFORD HALL MEDICAL CENTER, LACKLAND AIR FORCE BASE, TX

*Docket No. 02-1890; Submitted on the Record;
Issued February 21, 2003*

DECISION and ORDER

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

The issue is whether appellant sustained a back condition on August 11 or November 30, 2000 causally related to factors of his employment.

On August 14, 2000 appellant, then a 53-year-old research medical technologist, filed a claim alleging that on August 11, 2000 he injured his lower back when he reached to pick up a package and felt a spasm and pain. In a form dated August 14, 2000, Captain Chad Hynor, an employing establishment physician, did not make a diagnosis of appellant's condition but prescribed pain medication.

On December 18, 2000 appellant filed a second claim alleging that he injured his back on November 30, 2000 when he attempted to pick up luggage in his hotel room while he was on a temporary-duty assignment.

In a report dated March 27, 2001, Dr. Peter A. Tarbox, a Board-certified neurologist, stated that appellant bent over to pick up a bag on November 30, 2000, felt a pull in his low back and had experienced periodic low back spasms since that time. He provided findings on examination, stated his impression of sensory polyneuropathy and recommended further testing. Dr. Tarbox did not provide an opinion as to the cause of the condition.

In a report dated April 24, 2001, Dr. Tarbox diagnosed lumbar myofascial pain with evidence of degenerative disc disease. He indicated that the condition was work related but did not provide any medical rationale for his opinion.

By decision dated May 30, 2001, the Office of Workers' Compensation Programs denied appellant's claim for a back injury on the grounds that the medical evidence did not contain a rationalized explanation as to how his lumbar myofascial pain or degenerative disc disease was causally related to his employment.

By letter dated June 15, 2001, appellant requested an oral hearing before an Office hearing representative.

On January 30, 2002 a hearing was held at which time appellant testified.

By decision dated and finalized April 15, 2002, the Office hearing representative affirmed the Office's May 30, 2001 decision.¹

The Board finds that appellant failed to establish that he sustained a back injury on August 11 or November 30, 2000 causally related to factors of his employment.

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.² Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that he sustained an injury in the performance of duty and that his disability was caused or aggravated by his employment.³ As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.⁴ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁵ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated his condition is sufficient to establish causal relationship.⁶

With regard to the claimed injury on November 30, 2000 while appellant was on travel status, where an employee is on temporary-duty status away from his regular place of employment, he is covered by the Federal Employees' Compensation Act 24 hours a day with respect to any injury that results from activities essential or incidental to his temporary assignment.⁷ However, the fact that an employee is in travel status during the time a disabling condition manifests itself does not raise an inference that the condition is causally related to the incidents of the employment.⁸ The medical evidence must establish a causal relationship between the condition and factors of employment.⁹

¹ The record contains additional evidence that was not before the Office at the time it issued its April 15, 2002 decision. The Board has no jurisdiction to review this evidence for the first time on appeal. See 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).

² See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

³ See *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

⁴ See *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁵ See *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

⁶ *Joseph T. Gulla*, *supra* note 4.

⁷ See *Cherie L. Hutchings*, 39 ECAB 639, 643 (1988); *Richard Michael Landry*, 39 ECAB 232, 236 (1987).

⁸ See *Jennifer L. Sharp*, 48 ECAB 209, 211 (1996).

⁹ *Id.*

In this case, there is no medical opinion evidence supporting a causal relationship between appellant's employment and his back condition.

In a form report dated August 14, 2000, Capt. Hynor, an employing establishment physician, did not make a diagnosis of appellant's condition but prescribed pain medication. As Capt. Hynor did not diagnose a specific medical condition or relate appellant's back problem to his employment, this report does not discharge appellant's burden of proof. In a report dated March 27, 2001, Dr. Tarbox, a Board-certified neurologist, stated that appellant bent over to pick up a bag on November 30, 2000 and felt a pull in his low back and had experienced periodic low back spasms since that time. He provided findings on examination and stated his impression of sensory polyneuropathy and recommended further testing. However, Dr. Tarbox did not provide an opinion as to the cause of the condition. Therefore, this report is insufficient to establish that appellant sustained a back injury on November 30, 2001 causally related to factors of his employment. In a report dated April 24, 2001, Dr. Tarbox diagnosed lumbar myofascial pain with evidence of degenerative disc disease. He indicated that the condition was work related. However, Dr. Tarbox did not provide any medical rationale for his opinion on causal relationship. Therefore, the evidence of record is insufficient to meet appellant's burden of proof.

The decision of the Office of Workers' Compensation Programs dated April 15, 2002 is affirmed.

Dated, Washington, DC
February 21, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member