

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DIANE KRONNENBERG and U.S. POSTAL SERVICE,
POST OFFICE, Forest Park, IL

*Docket No. 02-2287; Submitted on the Record;
Issued February 19, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish that she sustained an occupational disease in the performance of duty.

On March 9, 2002 appellant, then a 45-year-old mailhandler, filed an occupational disease claim alleging that she sustained lower back pain. Appellant related that she was "pulling mailbags down the slide to key when I first felt pain in my lower back."

By letter dated May 8, 2002, the Office of Workers' Compensation Programs informed appellant that the information provided was insufficient to establish her claim. The Office noted that it did not consider low back pain a diagnosis and provided appellant 30 days within which to submit additional medical evidence in support of her claim.

By decision dated July 11, 2002, the Office denied appellant's claim on the grounds that she had not established an injury in the performance of duty. The Office found that appellant experienced the claimed employment factors but did not submit sufficient medical evidence to show that she sustained an injury resulting from factors of her federal employment.

The Board finds that appellant has not met her burden of proof to establish that she sustained an occupational disease 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 an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.²

¹ 5 U.S.C. §§ 8101-8193.

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

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 the 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.³ The medical evidence required to establish a causal relationship, generally is rationalized medical opinion evidence.⁴ 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,⁵ must be one of reasonable medical certainty,⁶ 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 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. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁸

In support of her claim, appellant submitted return to work forms from her attending physician, Dr. Leonard Young, an internist, dated January 14 to April 12, 2002. In the return to work certificates, Dr. Young diagnosed, *inter alia*, employment-related low back pain, questionable spinal stenosis, anxiety and depression. He found that appellant was disabled from employment from January 25 to February 6, 2002, partially disabled from February 6 to April 12, 2002 and capable of full duty on April 12, 2002. Dr. Young, however, did not provide a specific diagnosis other than to note appellant's symptoms of low back pain or provide any rationale for his opinion that her condition was employment related. Thus, Dr. Young's return to work forms are insufficient to meet appellant's burden of proof.⁹

³ *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ The Board has held that in certain cases where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384-85 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

⁹ *Caroline Thomas*, 51 ECAB 451 (2000) (a medical opinion not fortified by medical rationale is of little probative value).

In a chart note dated March 9, 2002, Dr. Young noted findings of low back pain, which he found was “aggravated by heavy package moving.” Dr. Young, however, did not provide a specific diagnosis or explain how, with reference of the specific facts of this case appellant’s condition was aggravated by her employment duties.¹⁰ Therefore, his opinion is of little probative value.¹¹

An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant’s own belief that there is causal relationship between her claimed condition and her employment.¹² To establish causal relationship, appellant must submit a physician’s report, in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and his medical history, state whether the employment injury caused or aggravated appellant’s diagnosed conditions and present medical rationale in support of his or her opinion. Appellant failed to submit such evidence in this case and, therefore, has failed to discharge her burden of proof.

¹⁰ The Board has held that a diagnosis of “pain” does not constitute a basis for payment of compensation. *See John L. Clark*, 32 ECAB 1618 (1981); *Huie Lee Goad*, 1 ECAB 180 (1948).

¹¹ Appellant submitted new evidence subsequent to the Office’s July 11, 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).

¹² *Donald W. Long*, 41 ECAB 142 (1989).

The July 11, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
February 19, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member