

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALICE COBBLE and U.S. POSTAL SERVICE,
POST OFFICE, Peru, IN

*Docket No. 02-2282; Submitted on the Record;
Issued July 17, 2003*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant sustained an employment-related back injury in the performance of her federal duties.

On November 6, 2000 appellant, then a 48-year-old, rural letter carrier filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that on September 12, 2000 she injured her back when she twisted to put mail in a low hanging mailbox. She later indicated that, other incidents, including lifting mailbags on September 2, 2000 contributed to her condition. In a November 6, 2000 narrative report, Dr. Jeffrey Kachmann, an attending Board-certified neurologist, wrote that appellant sustained a fairly sudden onset of pain when she twisted to deliver mail on September 12, 2000. He indicated that appellant described her pain as progressing to her right leg, resulting in numbness in her right L4 nerve distribution. A review of her lumbar magnetic resonance imaging (MRI) scan revealed degenerative disc disease at L3-4, L4-5 and L5-S1, with a central disc tear compressing the L4 nerve. Dr. Kachmann recommended an L4-5 discectomy. The record also contains an October 10, 2000 report from Dr. Richard Galbreath, an attending Board-certified neurologist, who indicated that an MRI scan test revealed lumbar disc disease at L3-4, L4-5 and L5-S1 with some compression of the nerve root.

In a December 8, 2000 letter, the Office asked appellant to clarify her claim, in particular whether she experienced a traumatic injury or an occupational disease. Surgery was performed on December 12, 2000 and revealed a central disc tear at L4-5 levels of the spine with free fragment disc herniation in right proximal foramina significantly compressing the right L4 nerve root. In a December 20, 2000 letter, appellant responded that several mailboxes on her route were very low requiring her to twist to reach them from her vehicle. She also stated that on September 2, 2000 she picked up approximately 20 bags of bulk mail that caused soreness in her back which was more severe after September 12, 2000.

In a January 9, 2001 decision, the Office denied the claim finding no causal relationship between appellant's medical condition and her employment factors.

In a February 6, 2001 report, Dr. Kachmann checked “yes” that he believed appellant’s condition was causally related to lifting mailbags and twisting to put mail in boxes. He listed the dates of injury as September 2 and 12, 2000. In a February 7, 2001 letter, appellant requested a hearing. In an April 29, 2001 letter, appellant noted that she submitted pictures of low hanging mailboxes and evidence of the weight of bulk mailbags she lifted.

In a June 18, 2001 decision, the hearing representative denied the claim finding the medical evidence insufficient on the issue of causal relationship.

Appellant requested reconsideration and submitted in support of her claim a May 1, 2002 report from Dr. Kachmann who wrote:

“In my opinion, according to appellant’s statement, clinical exam[ination]s and radiographic findings [appellant] did indeed herniate a large free fragment disc herniation at L4-5 on the right compressing the right L4 nerve root; causing her lumbar radiculopathy and pain syndrome. This occurred on the job from a twisting injury, as per her history ... I do believe this is of reasonable probability that this event did indeed occur.”

In a July 17, 2002 decision, the Office denied the claim finding the medical evidence, in particular Dr. Kachmann’s reports, inconsistent with appellant’s allegations. The Office indicated that appellant alleges her back condition developed over time while Dr. Kachmann’s reports indicated the injury was the result of a traumatic event.

The Board finds that the case is not in posture for decision.

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 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 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

In the present case, the medical evidence generally supports that appellant sustained a low back disc herniation. Appellant alleged and submitted supporting evidence, both factual and medical to support her contention that her back condition arose out of her employment factors. Appellant alleged that she injured her back over time as she lifted heavy bags and twisted to deliver mail into the low hanging mailboxes. In particular she noted incidents on September 2 and 12, 2000. The November 6, 2000 report of Dr. Kachmann, an attending Board-certified neurologist, indicated that the pain appellant complained of resulted from twisting while delivering her route on September 12, 2000. On a CA-20 form report dated February 6, 2001, Dr. Kachmann indicated that he thought the injury resulted from appellant’s lifting and twisting on September 2 and 12, 2000. In his May 1, 2002 report, Dr. Kachmann wrote that he believed

¹ 5 U.S.C. §§ 8101-8193.

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

her injury was caused by her employment. There were no medical reports disputing appellant or Dr. Kachmann. The Office denied the claim because it found Dr. Kachmann's reports inconsistent with appellant's factual allegations.

The Board finds that there is an uncontroverted inference of causal relationship as represented by Dr. Kachmann's reports.³ The fact that the reports of Dr. Kachmann contain deficiencies does not mean that the medical evidence may be disregarded by the Office; it merely means that their probative value is diminished.⁴ Under such circumstances, the reports are sufficient to require further development of the record.

On remand the Office should request that Dr. Kachmann provide a definitive diagnosis and a rationalized medical opinion concerning the relationship of appellant's claimed injury to employment factors. This evaluation should be based on a complete and accurate history of appellant's back condition, findings on examination, and results of diagnostic tests. Following this and such further development as the Office deems necessary, a *de novo* decision shall be issued.

The decision of the Office of Workers' Compensation Programs dated July 17, 2002 is set aside; the case is remanded for further proceedings consistent with this decision of the Board.

Dated, Washington, DC
July 17, 2003

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

³ See *John J. Carlone*, 41 ECAB 354 (1989).

⁴ See *Joseph R. Guay*, 35 ECAB 455, 460 (1983).