

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KENDIA Y. EDWARDS and U.S. POSTAL SERVICE,
BULK MAIL CENTER, Philadelphia, PA

*Docket No. 03-663; Submitted on the Record;
Issued June 24, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether appellant has established that she sustained a back condition in the performance of duty.

On May 28, 2001 appellant, then a 48-year-old clerk, filed an occupational disease claim alleging that she sustained severe pain in her lower back radiating to her knees due to factors of her federal employment. In statements dated June 8 and 25, 2001, she provided a detailed account of the employment duties to which she attributed her condition, including "heavy lifting, pushing, bending, stooping and other strenuous physical movements on a repeated basis...." Appellant stated: "The development of the claimed condition was first noticed April 17, 2001. I experienced severe stiffness, soreness and pain in my lower back...."

By decision dated July 25, 2001, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the medical evidence was insufficient to establish a causal relationship between the claimed employment factors and her diagnosed condition.

On August 23, 2001 appellant requested a hearing on her claim. At the hearing, held on January 28, 2002, she indicated that she performed limited-duty employment from 1993 until 2002 due to an accepted claim for a right shoulder condition. Appellant related that beginning in 2000 she performed lifting, pushing and pulling. She stated that she began experiencing back problems and that her discomfort increased on April 17, 2001. Appellant related that her condition worsened until she could no longer perform her job duties or even move about on April 21, 2000.

In a decision dated April 11, 2002, the hearing representative affirmed the Office's July 25, 2001 decision.

The Board finds that appellant has failed to meet her burden of proof to establish that she sustained a back condition 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 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 diagnosed condition is causally related to the employment factors identified by the claimant.¹ The medical opinion 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.²

In an office visit note dated May 8, 2001, Dr. Ronald M. Krasnick, a Board-certified orthopedic surgeon and appellant's attending physician, noted her complaints of pain "on and off over the past few months. It follows no particular pattern. It has become progressively severe despite conservative treatment." He recommended a magnetic resonance imaging (MRI) scan. Dr. Krasnick, however, did not provide a diagnosis or address the cause of appellant's pain and thus his opinion is insufficient to meet appellant's burden of proof.³

In a report dated May 24, 2001, Dr. Krasnick found that appellant's MRI scan showed a "left-sided and central disc herniation at L5-S1." He stated: "[Appellant] has improved somewhat, but still remains symptomatic with backache radiating into her left leg. As indicated, this reflects trauma sustained while she was at work." While Dr. Krasnick attributed appellant's condition to trauma at work, he did not describe the mechanism of injury or provide any rationale for his conclusion. To be of probative value, the opinion of a physician supporting causal relationship must be one of reasonable medical certainty, supported with affirmative evidence, explained by medical rationale and based on a complete and accurate factual and medical history.⁴

In an office visit note dated June 26, 2001, Dr. Krasnick described appellant's complaints of extreme back pain and noted that she was "symptomatic with a lumbar disc syndrome with a left L5 and/or S1 radiculopathy." He, however, did not address causation and therefore his opinion is of little probative value.⁵

In a form report dated June 27, 2001, Dr. Krasnick diagnosed a herniated nucleus pulposus at L5-S1 and checked "yes" that the condition was caused or aggravated by employment. He found appellant totally disabled from April 22, 2001 to the present. However,

¹ *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

² *See Morris Scanlon*, 11 ECAB 384-85 (1960); *Williams E. Enright*, 31 ECAB 426, 430 (1980).

³ *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

⁴ *Connie Johns*, 44 ECAB 560 (1993).

⁵ *See Linda I. Sprague*, *supra* note 3.

the Board has held that the checking of a box “yes” on a form report, without additional explanation or rationale, is insufficient to establish causal relationship.⁶

Dr. Krasnick submitted a letter to the Office dated July 23, 2001, in which he stated, “[Appellant], as you know, injured herself while at work on April 17, 2001. She developed backache, along with pain radiating into her left leg.” Dr. Krasnick noted that an MRI scan showed a central disc herniation at L5-S1 on the left. He opined that appellant could perform sedentary employment. Dr. Krasnick did not attribute appellant’s condition to the employment factors identified by appellant as the cause of her condition, repeated heavy lifting, pushing, bending and stooping. Instead, without providing any explanation, Dr. Krasnick attributed her herniated disc to an April 17, 2001 injury. Therefore, his opinion is insufficient to meet appellant’s burden of proof to establish that she sustained a back condition due to the identified factors of employment.⁷

In an office visit note dated September 24, 2001, Dr. Krasnick stated:

“[Appellant] works for the [employing establishment]. I have reviewed her job description. Her pain was occupational in nature and aggravated by an injury sustained on April 17, 2001.”

He concluded:

“To summarize, [appellant] is disabled with a lumbar disc syndrome and frank herniation to the left at L5-S1. She has plateaued with conservative treatment. She is totally and permanently disabled with reference to her job description with the [employing establishment].”

Dr. Krasnick, however, did not provide any medical rationale for his finding that appellant’s pain was due to her employment and further found that it was aggravated by an undescribed injury on April 17, 2001. Thus, his opinion is insufficient to meet appellant’s burden of proof.⁸

In an office visit note dated January 17, 2002, Dr. Krasnick listed findings on examination of “limitation of forward flexion, with weakly positive straight leg raising on the left.” He noted that appellant was not working and recommended epidural blocks. As Dr. Krasnick did not address causation, his opinion is of little probative value.

An award of compensation may not be based upon surmise, conjecture or speculation or upon appellant’s belief that there is a causal relationship between her condition and her employment. To establish causal relationship, appellant must submit a physician’s report in which the physician reviews the factors of employment identified by appellant as causing her condition and, taking these factors into consideration as well as findings upon examination of

⁶ *Calvin E. King*, 51 ECAB 394 (2000).

⁷ *Jacquelyn L. Oliver*, 48 ECAB 232 (1996).

⁸ *Vicky L. Hannis*, 48 ECAB 538 (1997).

appellant, state whether these employment factors caused or aggravated the diagnosed condition.⁹ Appellant failed to submit such evidence and therefore failed to discharge her burden of proof.

The decision of the Office of Workers' Compensation Programs dated April 11, 2002 is affirmed.

Dated, Washington, DC
June 24, 2003

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

⁹ *Id.*