

**United States Department of Labor
Employees' Compensation Appeals Board**

RAYMOND T. WADE, Appellant

and

**DEPARTMENT OF THE INTERIOR,
NATIONAL HISTORIC PARK,
Valley Forge, PA, Employer**

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**Docket No. 04-2286
Issued: February 7, 2005**

Appearances:
Thomas R. Uliase, Esq., for appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chairman
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member

JURISDICTION

On September 20, 2004 appellant filed a timely appeal from the May 24, 2004 merit decision of the Office of Workers' Compensation Programs, which denied his claim for a schedule award. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the Office's denial.

ISSUE

The issue is whether the conditions for which appellant seeks compensation are causally related to his November 19, 1996 employment injury and, if so, whether he is entitled to a schedule award for permanent impairment resulting from the injury.

FACTUAL HISTORY

On November 19, 1996 appellant, then a 49-year-old maintenance worker, sustained an injury in the performance of duty when he fell to a walkway while atop a ladder. He suffered no

wage loss. The Office accepted his claim for contusion of the face, scalp and neck, contusion of the chest wall and contusion of the hip and thigh.

On May 7, 2003 appellant requested a schedule award. In support thereof, he submitted the May 28, 2002 report of Dr. David Weiss, a Board-certified orthopedist, who related appellant's history, complaints and findings on physical examination. After noting that he had reviewed certain medical records, he diagnosed post-traumatic exacerbation of left hip osteoarthritis, post-traumatic sacroiliac joint dysfunction, and cumulative and repetitive trauma disorder with bilateral carpal tunnel syndrome, left greater than right. Dr. Weiss offered an opinion on the cause of appellant's disability: "The work[-]related injury of November 19, 1996 and due to the duties and exertions of his employment were the competent producing factor for the claimant's subjective and objective findings of today." He then calculated that appellant had a 43 percent permanent impairment of the left lower extremity, a 13 percent permanent impairment of the right upper extremity and a 3 percent permanent impairment of the left upper extremity. Dr. Weiss stated that the reasons for his opinion included the history reported, his physical examination, the duties of appellant's occupation and a review of medical records.

In a decision dated June 11, 2003, the Office denied appellant's claim for a schedule award on the grounds that the Office previously denied a claim of recurrence and appellant did not appeal. Appellant requested a hearing before an Office hearing representative, which was held on March 2, 2004.

In a decision dated May 24, 2004, the Office hearing representative affirmed the denial of appellant's claim for a schedule award on the grounds that Dr. Weiss provided no rationale for his opinion on causal relationship.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of his claim by the weight of the evidence,² including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.³

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between his current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of

¹ 5 U.S.C. §§ 8101-8193.

² *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.⁴

ANALYSIS

Dr. Weiss diagnosed post-traumatic exacerbation of left hip osteoarthritis, post-traumatic sacroiliac joint dysfunction, and cumulative and repetitive trauma disorder with bilateral carpal tunnel syndrome, left greater than right. He stated that appellant's November 19, 1996 employment injury and the duties and exertions of his employment were the competent producing factors for his subjective and objective findings, but he provided no specific basis for his assertion. He did not explain how falling from a ladder can exacerbate osteoarthritis in the hip or how it can cause a dysfunction of the sacroiliac joint. Dr. Weiss offered no evidence that such an exacerbation or dysfunction actually occurred on November 19, 1996. He stated that he relied on the history appellant gave him and on his review of medical records, but he pointed to nothing in those records to show that his conclusion was anything more than speculation. As for his diagnosis of a cumulative and repetitive trauma disorder with bilateral carpal tunnel syndrome, Dr. Weiss made no attempt to link this condition to the traumatic incident on November 19, 1996.⁵

It is not necessary that the evidence be so conclusive as to suggest causal connection beyond all possible doubt. The evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound and logical.⁶ Dr. Weiss offered no such evidence. His opinion lacks sufficient rationale and is insufficient to discharge appellant's burden of proof to establish that the conditions for which he seeks compensation are causally related to his November 19, 1996 employment injury.⁷

CONCLUSION

Appellant has not met his burden of proof to establish that the conditions for which he seeks compensation are causally related to his November 19, 1996 employment injury. Until such a causal relationship is established, it is premature to address whether he is entitled to a schedule award for any permanent impairment resulting from the injury.

⁴ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

⁵ If appellant wants to claim compensation for a cumulative and repetitive trauma disorder with bilateral carpal tunnel syndrome, he should file a separate claim for an occupational disease or illness.

⁶ *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983).

⁷ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954) (medical conclusions unsupported by rationale are of little probative value).

ORDER

IT IS HEREBY ORDERED THAT the May 24, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 7, 2005
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member