U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALBERT WHITE and U.S. POSTAL SERVICE,
POST OFFICE, NEW RIVER STATION, Ft. Lauderdale, Fla.

Docket No. 97-2091; Submitted on the Record;
Issued May 17, 1999

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant established that he sustained a back injury causally related to factors of his federal employment.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not established that he sustained an employment-related back injury.

The facts in this case indicate that on July 21, 1995 appellant, then a 48-year-old postal clerk, filed a claim contending that on July 20, 1995 he sustained a lower back injury while opening a stuck vault door at the employing establishment. He did not stop work.[1] Following further development, by decision dated November 17, 1995, the Office of Workers' Compensation Programs denied the claim on the grounds that appellant had not established fact of injury. Appellant timely requested a hearing that was held on May 9, 1996. In an August 8, 1996 decision, an Office hearing representative found the July 20, 1995 incident was established, noted that it was unclear from the record whether subluxation had been established by x-ray and remanded the case to the Office for a second opinion evaluation. On September 12, 1996 the Office referred appellant, along with the medical record, a statement of accepted facts and a set of questions to Dr. Michael J. Davoli, a Board-certified orthopedic surgeon. By decision dated February 21, 1997, the Office denied the claim, finding that appellant failed to establish fact of injury. The instant appeal follows.

[1] The record indicates that appellant also filed a claim alleging that he injured his back and neck on June 14, 1995 while in jail after having been unfairly arrested at the employing establishment. This was adjudicated by the Office under file number A06-629574 and denied. The instant claim was adjudicated under file number A06-632009.

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of his or her claim[3] including the fact that the individual is an "employee of the United States" within the meaning of the Act,[4] that the claim was timely filed within the applicable time limitation period of the Act,[5] 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.[6] These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[7] However, an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong and persuasive evidence.[8]

Causal relationship is a medical issue[9] and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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, 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.[10] Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[11]

The relevant medical evidence includes an unsigned report dated July 20, 1995 in which Dr. R.E. Cardella, a general practitioner, noted that appellant injured himself in June.[12] He diagnosed low back strain, mild suprascapular strain and post-traumatic headache. In reports dated July 21 and September 26, 1995, appellant's chiropractor, Dr. Michael J. Chiccone, noted the history of injury and x-ray findings of subluxation. He checked the "yes" box on an Office

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[2] 5 U.S.C. §§ 8101-8193.

[3] *See Daniel R. Hickman*, 34 ECAB 1220 (1983); *see also* 20 C.F.R. § 10.110.

[4] *See James A. Lynch*, 32 ECAB 216 (1980); *see also* 5 U.S.C. § 8101(1).

[5] 5 U.S.C. § 8122.

[6] *See Melinda C. Epperly*, 45 ECAB 196 (1993).

[7] *See Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[8] *See Robert A. Gregory*, 40 ECAB 478 (1989).

[9] *Mary J. Briggs*, 37 ECAB 578 (1986).

[10] *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, *supra* note 7.

[11] *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (182).

[12] *See supra* note 1.

form report, indicating that the condition was employment related. In an October 3, 1996 report, Dr. Davoli, who provided a second-opinion for the Office, noted appellant's history of lumbar strain with persistent symptoms and findings on examination. In a January 7, 1997 report, he advised that appellant had no sign of subluxation on the x-ray examination and needed no further orthopedic care.[13] Dr. Davoli found no source of permanent impairment, disability or injury.

The Board finds that appellant has not established that the July 20, 1995 employment incident resulted in an injury as the record contains no rationalized medical evidence that relates appellant's condition to the employment incident. While appellant submitted reports from Dr. Chiccone who diagnosed subluxation by x-ray, these reports are not sufficient to meet appellant's burden of proof, as they contain no medical rationale explaining how the July 20, 1995 incident caused his back condition. The Board has held that merely checking a box on an Office form, by a physician, is insufficient to establish causal relationship.[14] Furthermore, while the Office is not required to disprove appellant's claim,[15] it did obtain a medical opinion from Dr. Davoli who negated a causal relationship between appellant's back condition and factors of his employment.

The decision of the Office of Workers' Compensation Programs dated February 21, 1997 is hereby affirmed.

Dated, Washington, D.C.
May 17, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

[13] Dr. Davoli noted that appellant could not undergo a magnetic resonance examination due to severe pain in his hand caused by embedded shrapnel.

[14] *See Debra S. King*, 44 ECAB 203 (1992).

[15] *Meyer Klein*, 27 ECAB 304 (1976).