

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SAMUEL F. KNIGHT and TENNESSEE VALLEY AUTHORITY,  
BELLEFONTE NUCLEAR POWER PLANT, Hollywood, AL

*Docket No. 98-1394; Submitted on the Record;  
Issued April 6, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden of proof to establish any residual disability beginning August 1, 1985 causally related to his June 18, 1979 employment injury.

On June 18, 1979 appellant sustained an employment-related low back strain while moving heavy equipment.<sup>1</sup> He did not stop work at that time.

On January 16, 1995 appellant filed a Form CA-7, claiming compensation as a result of his June 18, 1979 employment injury beginning August 1, 1985.<sup>2</sup> Employing establishment medical records from 1979 to 1985 were submitted, which referred to appellant's left knee condition. A June 18, 1979 treatment note indicated that appellant had low back pain that date after picking up a "meg" box. Appellant was directed to refrain from bending or stooping for three days.

In a February 10, 1995 decision, the Office of Workers' Compensation Programs found that the medical evidence did not establish that appellant had any disability resulting from his June 18, 1979 injury.

By letter dated February 28, 1992, appellant requested a hearing before an Office hearing representative. In support of the request, appellant submitted various documents including

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<sup>1</sup> Appellant did not file his claim until August 31, 1994. The record reflects that the Office of Workers' Compensation Programs accepted an October 24, 1984 left knee injury (Office claim number A16-361971) and had issued decisions denying modification of a loss of wage-earning capacity that became effective October 17, 1993. The record indicates that appellant was terminated by the employing establishment in 1985. Matters pertaining to Office claim number A16-361971 are not before the Board in the present appeal.

<sup>2</sup> On October 24, 1994 appellant filed a claim for a schedule award due to his 1979 back injury. On December 28, 1994 the Office denied the schedule award claim. This issue is not before the Board on the present appeal.

medical reports from Dr. Gary D. Snook, a Board-certified orthopedic surgeon and excerpts from a medical journal regarding herniated discs. In his January 17, 1994 report, Dr. Snook noted reviewing x-rays from 1977. At that time, he stated that appellant's L5-S1 articulation and disc space were relatively normal. Dr. Snook opined that, since 1977 appellant's disc had gone "from good to nonexistent." He stated that this "may have resulted from the accident in 1979." In a February 21, 1994 report, Dr. Shook related that appellant had been under his care since November 15, 1993 and had degenerative disc disease at the L5-S1.

By decision dated October 10, 1996, an Office hearing representative affirmed the prior denial.

In a decision dated April 10, 1997, the Office denied appellant's reconsideration request, without reviewing the merits of the claim, on the grounds that the evidence submitted was of repetitious nature and insufficient to warrant review of its prior decision.

Appellant subsequently requested reconsideration and submitted an August 15, 1997 report from Dr. John D. Halcomb, an orthopedic surgeon, who noted the history of injury and reported findings on examination conducted on August 15, 1997. Dr. Halcomb diagnosed lumbar degenerative disc disease at L5-S1 with a degree of radiculopathy. Regarding the cause of appellant's condition the doctor opined that, "in all probability," appellant's complaints "seem secondary to the [1979] injury."

In a decision dated December 24, 1997, the Office denied modification of its prior decision.

The Board finds that appellant has not met his burden of proof in establishing that he sustained any disability beginning August 1, 1985 causally related to his June 18, 1979 employment injury.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of establishing the essential elements of his claim, including that any disability for which compensation is claimed is causally related to the accepted employment injury.<sup>4</sup> The Board has held that the mere concurrence of a condition with a period of employment does not raise an inference of causal relationship between the two.<sup>5</sup> Further, appellant must submit a physician's rationalized medical opinion supporting a causal relationship between factors of federal employment and the claimed period of disability.<sup>6</sup>

While the Office has accepted that appellant sustained an employment-related low back strain on June 18, 1979 appellant has submitted insufficient medical evidence to establish that his claimed disability beginning August 1, 1985 is causally related to that employment injury.

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *Charles E. Richardson*, 34 ECAB 1413 (1983).

<sup>6</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

There are no contemporaneous medical reports of record indicating that appellant's low back condition was disabling beginning August 1, 1985 or that any such condition was employment related. The employing establishment's June 18, 1979 treatment note mentions the work injury but subsequent employing establishment treatment notes did not indicate that the back condition remained symptomatic or that it was disabling.

The only medical evidence submitted by appellant that supports causal relationship are from Drs. Snook and Halcombe. However both physicians only provide speculative support for causal relationship<sup>7</sup> and neither physician provides any medical rationale to explain why a 1979 injury that did not cause any medically documented disability or continuing symptoms at that time would become totally disabling on August 1, 1985. Also neither physician explained why any such disability would not be due solely to a nonemployment-related factor. For example, Dr. Snook opined that appellant's condition "may have resulted from the accident in 1979," while Dr. Halcomb found that "in all probability" appellant's complaints "seem secondary to the [1979] injury." Neither doctor provided an unequivocal opinion supporting causal relationship and neither doctor explained the reasoning supporting their opinion on causal relationship. Thus, these medical report are of diminished probative value and insufficient to establish causal relationship between the claimed disability and the accepted 1979 employment injury.

Appellant has also submitted portions of medical texts in support of his claim. However, the Board has held that newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the causal relationship between a claimed condition and an employee's federal employment as such materials are of general application and are not determinative of whether the specific condition claimed is related to the particular employment factors alleged by the employee.<sup>8</sup>

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<sup>7</sup> See *Shirley L. Burreston*, 34 ECAB 1154 (1983).

<sup>8</sup> *William C. Bush*, 40 ECAB 1064, 1075 (1989).

The decision of the Office of Workers' Compensation Programs dated April 10, 1997 is affirmed.

Dated, Washington, D.C.  
April 6, 2000

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member