U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BYRON E. THURMOND, SR. and U.S. POSTAL SERVICE, POST OFFICE, Phoenix, AZ

Docket No. 98-1856; Submitted on the Record;
Issued February 9, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS, A. PETER KANJORSKI

The issue is whether appellant injured his right arm while in the performance of his duties.

On November 4, 1993 appellant filed a claim asserting that he developed pain in his right hand, wrist, arm and shoulder while performing his duties as a mailhandler. He described the cause of his injury as placing damaged mail into plastic bags and sealing each, which required about 5 pounds of pressure per bag, with about 4,000 letters bagged per day and about 10,000 date stampings and tapings per day.

In a decision dated June 21, 1994, the Office of Workers' Compensation Programs denied his claim on the grounds that the evidence was insufficient to establish a causal relationship between his right hand, wrist, arm and shoulder condition and factors of his federal employment. The Office found that the January 24, 1994 opinion of Dr. William R. Gerchick, a Board-certified family practitioner specializing in sports medicine, was of little probative value because his history appeared to describe only regular duties and not the light or limited duty appellant performed. The Office also found that Dr. Gerchick's opinion provided no medical rationale.

In a decision dated January 16, 1996, an Office hearing representative affirmed the Office's June 21, 1994 decision on the grounds that appellant failed to satisfy his burden of proof to establish the element of causal relationship. The hearing representative found that the reports of other physicians failed to provide reliable, probative evidence of the kind that establishes causal relationship.

Reviewing the merits of appellant's claim, the Office issued a decision on February 19, 1998 denying modification of its prior decision. The Office found that the evidence of record, including the opinion of Dr. David W. Strege, an orthopedic surgeon, did not contain a conclusive rationalized medical opinion, based on a complete and accurate history, establishing a

disabling physical condition resulting from factors of employment. The Office observed that a rationalized medical opinion was necessary given appellant's preexisting conditions.

The Board finds that the evidence fails to establish that appellant injured his right arm while in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of proof to establish the essential elements of his claim.[2] When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.[3]

The factual evidence concerning appellant's duties is well developed. The employing establishment disputes several points raised in appellant's description of his duties. It also appears that appellant has had a number of prior injuries. The record indicates that he was working light or limited duty as a result of a prior employment injury when, in January 1991, he returned to work without restrictions. He returned to light or limited duty in April 1991 and stopped work in November 1993. The question for determination is whether the duties he performed caused or contributed to the claimed right hand, wrist, arm and shoulder condition.

Causal relationship is a medical issue,[4] and the medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,[5] must be one of reasonable medical certainty,[6] and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.[7]

The record contains a couple of medical opinions linking appellant's right arm condition to his federal employment. Dr. Gerchick's January 24, 1994 opinion is of little probative value

[1] 5 U.S.C. §§ 8101-8193.

[2] *See Margaret A. Donnelley*, 15 ECAB 40 (1963).

[3] *See generally John J. Carlone*, 41 ECAB 354 (1989); *see also* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15), 10.5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

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

[5] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[6] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[7] *See William E. Enright*, 31 ECAB 426, 430 (1980).

because, as the Office correctly found, the history he reported did not describe appellant's light or limited duty and did not accurately reflect the periods of such duty.[8]

In a May 31, 1990 report, Dr. Marc A. Letellier, a neurosurgeon, noted that appellant had multiple injuries over the years and that these injuries, according to appellant, never totally healed. Dr. Letellier reported that findings on studies could have been caused by these original injuries. He also reported that he was not sure that the lesion in appellant's lower back was caused by any of appellant's previous injuries in 1984, 1985 and 1986. It was possible, he reported, that appellant had an initial injury in 1986 that was aggravated with time by the type of work that he performed. The Board finds that Dr. Letellier's opinion is speculative[9] and, coming three and a half years before the filing of appellant's claim, does not clearly address or explain whether the specific duties appellant performed prior to November 4, 1993 caused an injury to his right arm.

In a May 23, 1994 report, Dr. Cesar M. Rodarte, a family physician, stated that appellant's symptoms got worse on February 24, 1993 because the injury was associated with lifting and multiple and frequent rotation of the upper spine. Dr. Rodarte noted, however, that there was discrepancy in the description appellant gave of his injury on February 24, 1993. At one point, appellant stated that an injury occurred that date while sorting mail. Subsequently, he stated that he injured himself on that date while lifting empty cardboard trays as he was setting up around some type of machine. As the Board has noted, an opinion based on an inaccurate or incomplete factual background has little probative value.

Finally, on October 11, 1995 Dr. Strege stated that appellant continued to have impingement syndrome "due to continued overhead activities." Although he noted that appellant currently worked full duty as a mailhandler, Dr. Strege's opinion is vague and is of little probative value. Not only did he fail to describe appellant's overhead activities, he failed to explain from a medical perspective how such specific duties caused or contributed to appellant's diagnosed condition. The Board has held that medical conclusions unsupported by rationale are of little probative value.[10] In a follow-up report dated February 5, 1996, Dr. Strege noted that appellant performed considerable lifting of packages and mailbags weighing approximately 70 pounds each. Dr. Strege opined that appellant's work activities as a mailhandler had likely aggravated his current condition. Again, however, he offered no medical explanation for his opinion.

---

[8] *See James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete); *see generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

[9] *See Philip J. Deroo*, 39 ECAB 1294 (1988) (although the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal); *Jennifer Beville*, 33 ECAB 1970 (1982) (statement of a Board-certified internist that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value).

[10] *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

Because the employing establishment disputes several points in appellant's description of the duties he performed and because appellant has sustained a number of injuries in the past, it is important in this case that any physician offering an opinion on causal relationship detail the accepted duties of appellant's light- or limited-duty assignment, the accepted duties of his full-duty assignment, the respective periods of each. It is important that the physician specifically describe each and every previously accepted employment injury to which appellant attributes his current right arm condition. An opinion supporting causal relationship must come from a complete and accurate factual background. It is also important that the physician provide a well-reasoned explanation of how specific duties or specific employment injuries caused or contributed to the claimed right arm condition. The depth and quality of this explanation may determine appellant's entitlement. As appellant has failed to submit such probative medical opinion evidence, the Board finds that he has not met his burden of proof.

The February 19, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
February 9, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member