

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HERMAN WHITFIELD and U.S. POSTAL SERVICE,
SAGE POST OFFICE, Houston, TX

*Docket No. 98-2394; Submitted on the Record;
Issued February 23, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty, as alleged.

On July 25, 1997 appellant, then, a 43-year-old technical mail carrier, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he experienced severe pain in his wrists, hands and fingers and had carpal tunnel syndrome. Appellant explained that he noticed knots in his right and left wrists. Appellant stopped work on July 17, 1997 and returned to work on July 24, 1997.

On July 17, 1997 Dr. Jerry Wasserstein, an osteopath, examined appellant and stated that appellant was unable to return to work until he was reevaluated on July 21, 1997. Dr. Wasserstein opined that appellant was totally incapacitated due to bronchitis and carpal tunnel syndrome. By note dated July 21, 1997, he concluded that appellant could return to work without restrictions.

By letter dated August 5, 1997, the Office of Workers' Compensation Programs requested additional information from appellant. Appellant did not respond.

By decision dated September 12, 1997, the Office denied appellant's claim for failure to establish fact of injury.

On November 5, 1997 appellant requested reconsideration. In support, appellant submitted medical evidence, including an undated report from Dr. Wasserstein. He noted that appellant's job responsibilities included sorting mail and lifting boxes and trays. Dr. Wasserstein also indicated that he had been treating appellant for years but did not have current access to all of his medical records. He noted that appellant presented on July 17, 1997 with complaints of pain in his elbows and wrists and also tingling in hands and knuckles. Dr. Wasserstein diagnosed carpal tunnel syndrome.

On August 26, 1997 appellant underwent an electromyogram (EMG) and a magnetic resonance imaging (MRI) scan of the cervical spine. The EMG was normal. An MRI scan dated October 23, 1997 revealed no evidence of significant joint effusion. Dr. Craig Thiessen, a Board-certified radiologist, diagnosed “thickening of flexor tendon sheaths, rule out carpal tunnel syndrome.” An x-ray of the right wrist also dated October 23, 1997, revealed no evidence of acute injury. In a report dated November 12, 1997, Dr. Maurice L’Ecuyer, an orthopedic surgeon, reported that appellant was injured on July 17 or 19, 1997 and had pain, tingling and numbness in his arms down to his wrist and hand. Dr. L’Ecuyer opined that appellant had no signs of carpal tunnel syndrome. Instead, appellant had weakness and radiculopathy of the upper extremity. He recommended an MRI scan of the cervical spine. In a follow-up report dated December 2, 1997, Dr. L’Ecuyer reported that appellant related being injured on July 19, 1997 while at work. Appellant was working on the “letter case sorting mail and started to feel severe pain, tingling [sic] and numbness in the arms down to the wrist and hands.” He noted no evidence of carpal tunnel syndrome but indicated that the MRI scan revealed herniated nucleus pulposus C5-6 and C6-7. He recommended physical therapy.

In a report dated January 27, 1998, Dr. Taghi Shafie, a neurologist, diagnosed cervical disc syndrome “most likely” due to appellant’s injury in July 1997.

By decision dated July 20, 1998, the Office found that the newly submitted evidence was insufficient to warrant modification of the September 12, 1997 decision. The Office found that appellant failed to establish that any medical condition was causally related to his employment.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an employment injury in the performance of duty.

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the “individual is an employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

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 of existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying 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 employment factors identified by the claimant were the proximate cause of the condition for

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on 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.⁴

In the instant case, appellant has not fully identified the specific employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition. While it appears appellant may relate his condition to the sorting of mail and lifting of boxes and trays, he has submitted no rationalized medical opinion specifically addressing whether these or other work factors caused or aggravated his claimed condition or otherwise establishing that the diagnosed condition was causally related to employment factors or conditions. As noted above, submission of such evidence is part of appellant's burden of proof. Dr. Wasserstein diagnosed carpal tunnel syndrome but did not state that it was caused by specific factors of appellant's job as a technical mail carrier. Although Dr. L'Ecuyer reported a history of a work injury on July 19, 1997, the physician found no evidence of carpal tunnel syndrome and further did not discuss whether appellant's herniated nucleus pulposus was related to the employment incident. While Dr. Shafie concluded that appellant's cervical disc syndrome was "most likely" caused by the injury in July 1997, the physician also failed to provide a rationalized medical opinion, based upon reasonable medical certainty, that there was a causal connection between appellant's condition and any specific workplace factors.⁵ Furthermore, the physician's support for causal relationship is speculative.⁶ For example, Dr. Shafie did not provide medical reasoning explaining how particular job factors caused or aggravated a specific medical condition. As appellant has failed to present a rationalized medical opinion, appellant, therefore, has failed to meet his burden of proof in establishing fact of injury.⁷

⁴ *Id.*

⁵ *Thomas L. Hogan*, 47 ECAB 323, 328-29 (1996).

⁶ *See Alberta S. Williamson*, 47 ECAB 569 (1996).

⁷ *See Victor J. Woodhams*, *supra* note 3.

The decisions of the Office of Workers' Compensation Programs dated July 20, 1998 and September 12, 1997 are hereby affirmed.

Dated, Washington, D.C.
February 23, 2000

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member