

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RODNEY DAVIS and DEPARTMENT OF THE AIR FORCE,
McCLELLAN AIR FORCE BASE, North Highlands, CA

*Docket No. 98-2141; Submitted on the Record;
Issued March 10, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant's disability beginning April 16, 1987 was causally related to his accepted employment injury.

On July 19, 1984 appellant, then a 56-year-old warehouse worker, filed a claim attributing his rheumatoid arthritis to his federal employment. The Office of Workers' Compensation Programs accepted his claim for a permanent aggravation of degenerative joint disease of the left foot and ankle. Medically disqualified from his position as a warehouse worker, appellant was reassigned on April 12, 1987 to the position of inventory management specialist. Appellant resigned from this position on April 16, 1987 "due to age."

Appellant received a schedule award for a 28 percent permanent impairment of the left leg. The period of the award ran from April 16, 1987 through October 31, 1988. He received a subsequent award for an additional 21 percent permanent impairment. The period of this additional award ran from November 1, 1988 to December 29, 1989.

On May 27, 1998 appellant filed a claim for compensation for the period beginning April 16, 1987.

A review of the medical evidence shows that, on April 22, 1987, appellant's attending rheumatologist, Dr. Aida G. Cervantes, reported that appellant was not able to engage in full-time work as a warehouse worker and that this disability began in 1986. She stated that appellant's restrictions included no lifting over 10 pounds, no continuous standing over one hour, no squatting and no kneeling. Dr. Cervantes reported that she advised appellant in April 1987 to leave work permanently. In a June 23, 1987 report, she stated that appellant could only walk less than two blocks and could not stand continuously for more than 30 minutes.

The duties and responsibilities of the position of inventory management specialist included walking frequently, standing, reaching, bending and some lifting up to 35 pounds.

In a report dated August 12, 1988, Dr. Harry A. Khasigian, a Board-certified orthopedic surgeon and Office referral physician, stated the following: “Based on the reports provided, the patient is unable to perform the duties of warehouse worker or inventory management specialist because they involve walking frequently, standing, reaching and bending. Although he cannot work in the description provided, he is capable of employment in a bench or clerical type of work which involves a minimal amount of walking as described above.” Dr. Khasigian reported, however, that he believed none of appellant’s diagnosed conditions were work related.

The Office sought another second opinion in 1995. In the statement of accepted facts, the Office advised Dr. Gilbert H. Lang, a Board-certified orthopedic surgeon, that appellant resigned from the position of inventory management specialist complaining that his symptoms had gotten too bad for him to continue employment. In a report dated August 28, 1995, Dr. Lang stated that appellant related that he was taken off the forklift in about 1986 or early 1987 and put on a desk-type job for a portion of the year: “He subsequently reached a point where he was not able to tolerate that job and he retired in 1987.” Dr. Lang concluded that appellant had become disabled for his warehouse job in 1986 and then subsequently retired in 1987 “due to multiple problems and this appears to have been appropriate.”

In a decision dated June 18, 1998, the Office denied appellant’s claim for compensation beginning April 16, 1987 on the grounds that appellant had retired due to age, that the inventory specialist position was within his medical work restrictions, that the job would have continued to be available had he not resigned and that there was no medical evidence in the record to support that appellant was temporarily totally disabled from employment after December 29, 1989 due to his employment-related condition.¹

The Board finds that the medical opinion evidence in this case fails to establish that appellant’s disability beginning April 16, 1987 was causally related to his accepted employment injury.

A claimant seeking benefits under the Federal Employees’ Compensation Act² has the burden of proof to establish the essential elements of his claim by the weight of the evidence,³ 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.⁴

The Office accepted that appellant sustained a permanent aggravation of degenerative joint disease of the left foot and ankle while in the performance of his duties. However, it is appellant’s burden to establish that the disability for which he seeks compensation, beginning April 16, 1987, is causally related to his accepted employment injury.

¹ Claimants may not receive compensation for disability while receiving a schedule award for permanent impairment. *Marie J. Born*, 27 ECAB 623 at 628 (1976); 20 C.F.R. § 10.304(a), .304(c)(3).

² 5 U.S.C. §§ 8101-8193.

³ *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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 claimed disability and the accepted employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury, and must explain from a medical perspective how the claimed disability is related to the injury.⁵

The record in this case contains no such medical opinion evidence. Although there is some indication that appellant may not have retired on April 16, 1987 solely because of age appellant has not submitted medical opinion evidence explaining, in a well-reasoned manner, that he was unable to continue working in April 1987 as a result of the degenerative joint disease of his left foot and ankle, or that the degenerative joint disease disabled him at some later time from fulfilling the physical requirements of an inventory management specialist. Such medical opinion evidence is necessary to establish the critical element of causal relationship. As the record contains no such evidence, the Board finds that the Office properly denied his claim.

The June 18, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
March 10, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ See *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).