

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARLOTTE KING and DEPARTMENT OF LABOR,
OFFICE OF WORKERS' COMPENSATION PROGRAMS,
Washington, DC

*Docket No. 00-1253; Submitted on the Record;
Issued March 29, 2001*

DECISION and ORDER

Before MICHAEL E. GROOM, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has established a cervical condition causally related to her November 5, 1996 employment injury.

On December 11, 1996 appellant, then a 45-year-old senior claims examiner, filed a traumatic injury claim alleging that on November 5, 1996 she hurt her right arm injury when several books fell on her. The Office of Workers' Compensation Programs accepted the claim for right lateral epicondylitis.

In a decision dated June 4, 1999, the Office determined that appellant had not established a cervical condition causally related to the November 5, 1996 employment injury. By decision dated December 9, 1999, an Office hearing representative affirmed the prior decision.

The Board finds that appellant has not established a cervical condition causally related to the November 5, 1996 employment injury.

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 that any disability or specific condition for which compensation is claimed is causally related to the employment injury.² An opinion on causal relationship must be based on a complete and accurate factual and medical background, and must discuss the apparent lack of medical treatment for a cervical condition until well after the employment incident.³

¹ 5 U.S.C. §§ 8101-8193.

² *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ It is well established that as part of appellant's burden, she must submit rationalized medical opinion evidence, which is based on a complete factual and medical background. *Neal C. Evins*, 48 ECAB 252 (1996).

In this case, the medical evidence fails to establish a cervical condition causally related to the employment injury. The initial reference to a cervical condition appears in a treatment note dated April 22, 1998 from Dr. Daniel J. Pereles, an orthopedic surgeon, who stated that appellant was having “persistent cervical discomfort secondary to her tennis elbow.”⁴ On May 22, 1998 Dr. Pereles discharged appellant from his care.

Dr. Pereles again saw appellant in March 1999, noting that most of her pain was related to her cervical radiculopathy. In a note dated September 17, 1999, Dr. Pereles indicated that appellant had recurrent pain in her cervical spine and down her right arm. He stated that he was “sure” this was all due to the employment incident, as “I can find no other reason why her neck is causing her such pain other than the [employment] accident. She says she was completely normal before the accident.”

The lack of symptoms prior to the employment incident does not itself provide rationale in support of a causal relationship between a condition and employment.⁵ Dr. Pereles does not provide medical reasoning that explains the causal relationship between appellant’s diagnosed neck condition and the employment injury. It is not clear, for example, whether Dr. Pereles believed that appellant sustained a neck injury at the time of the November 5, 1996 incident, or whether a neck condition subsequently developed from the accepted right arm injury. In a report dated February 23, 1999, Dr. Peter McPartland, a chiropractor, diagnosed acute post-traumatic subluxation of C5 with cervical radiculitis.⁶ Dr. McPartland stated that it appeared that the falling of the books also caused a jerking of the neck, “which placed strain and caused her cervical spine to become subluxated.” He stated that this irritated nerves and caused compression of the discs, resulting in bulging and possible herniations. Dr. McPartland opined that appellant sustained both an elbow and neck injury when she was struck by the books.

The report of Dr. McPartland is of diminished probative value because it does not adequately discuss the medical history and explain the opinion offered in view of the existing medical record. The record does not contain any contemporaneous medical evidence containing a history of jerking the neck during the employment incident in 1996 or, describing neck symptoms or diagnosing a cervical condition.

The Board notes that an Office medical adviser reviewed the evidence and in a May 28, 1999 report opined that appellant did not have an employment-related cervical condition. The medical adviser noted the lack of a history of a neck injury and stated that the MRI scan findings were unrelated to the right arm symptoms.

⁴ A magnetic resonance imaging (MRI) report dated April 27, 1998 reports moderately severe spondylosis at C5-6 mildly impinging the anterior cord and causing moderate to severe bilateral foraminal impingement.

⁵ See, e.g., *Walter J. Neumann, Sr.*, 32 ECAB 69, 72 (1980).

⁶ Dr. McPartland did diagnose a subluxation as demonstrated by x-ray, and therefore he is a physician under 5 U.S.C. § 8101(2).

In the absence of a reasoned medical opinion, based on a complete background, establishing causal relationship between a diagnosed cervical condition and the employment injury, the Board finds that appellant has not met her burden of proof in this case.

The decisions of the Office of Workers' Compensation Programs dated December 9 and June 4, 1999 are affirmed.

Dated, Washington, DC
March 29, 2001

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member