

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD DIXON and U.S. POSTAL SERVICE,
POST OFFICE, Bel Air, MD

*Docket No. 01-837; Submitted on the Record;
Issued November 15, 2001*

DECISION and ORDER

Before BRADLEY T. KNOTT, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met his burden of proof in establishing that he developed a left elbow or cervical condition due to factors of his federal employment.

Appellant, a 45-year-old rural letter carrier, filed a notice of occupational disease on June 29, 1999 alleging that his left elbow pain and pain from his shoulder to his wrist were caused by work factors such as casing and delivering mail. The Office of Workers' Compensation Programs denied appellant's claim by decision dated August 24, 1999. Appellant requested an oral hearing on September 24, 1999.

By decision dated November 15, 1999, the Branch of Hearings and Review denied appellant's request for an oral hearing as untimely. Appellant requested reconsideration of the Office's August 24, 1999 decision, on August 21, 2000. By decision dated December 12, 2000, the Office reviewed appellant's claim on the merits and found that the evidence submitted was not sufficient to warrant modification of its August 24, 1999 decision.¹

The Board finds that appellant has not established that he developed an injury due to factors of his federal employment.

To establish that an injury was sustained while in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or 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 which compensation is claimed or, stated differently, medical evidence

¹ As the November 15 and August 24, 1999 decisions of the Office were issued more than one year prior to appellant's appeal to the Board on February 2, 2001, the Board will not review these decisions on appeal. 20 C.F.R. § 501.3(d)(2).

establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.²

The record contains a copy of appellant's position description indicating that appellant's job included sorting, loading and delivering mail weighing up to 70 pounds. Therefore, appellant has submitted factual evidence of the employment duties which contributed to his condition.

Appellant initially submitted reports from Dr. Charles C. Cruickshank, a chiropractor, diagnosing left lateral epicondylitis. Dr. Cruickshank did not diagnose a subluxation of the spine as demonstrated by x-ray to exist and, therefore, is not a physician for the purposes of the Federal Employees' Compensation Act.³ His reports cannot constitute medical evidence.

Appellant also submitted a report dated June 30, 1999 from Dr. John B. Naiman, a Board-certified orthopedic surgeon, diagnosing left elbow lateral epicondylitis. However, Dr. Naiman failed to provide a history of injury or an opinion on the causal relationship between appellant's diagnosed condition and his employment. This report is, therefore, insufficient to meet appellant's burden of proof.

In a series of reports, Dr. Charles M. Narrow, a physiatrist, diagnosed left cervical radiculitis and radiculopathy. On May 30, 2000 Dr. Narrow stated: "I think that his original job activities of moving trays of mail around caused the symptomatology.... From his explanation of having to move around trays of mail, it seems this was within reasonable medical certainty the cause of his problem as he describes no other trauma."

Although Dr. Narrow opined that appellant's diagnosed condition was causally related to his employment duties, he failed to provide medical rationale in support of his opinion. Dr. Narrow merely stated that appellant did not provide any other history of trauma, without explaining how the employment duties of moving trays of mail could have resulted in the diagnosed condition. Therefore, his report is insufficient to establish a causal relationship between appellant's condition and his employment.

² *Lourdes Harris*, 45 ECAB 545, 547 (1994).

³ 5 U.S.C. §§ 8101-8193, 8101(2).

The December 12, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
November 15, 2001

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member