

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KEVIN T. ERNSBERGER and U.S. POSTAL SERVICE,
POST OFFICE, Toledo, OH

*Docket No. 03-373; Submitted on the Record;
Issued July 2, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant sustained an injury in the performance of duty.

On July 27, 2001 appellant, then a 44-year-old letter carrier, filed a claim for occupational disease alleging that back problems, right shoulder numbness and leg pain were caused by a work-related vehicular accident in October 2000. The employing establishment noted that appellant's accident occurred on October 11, 2000.

The Office of Workers' Compensation Programs advised appellant regarding the evidence needed to support his claim. By decision dated October 11, 2001, the Office denied his claim. By letter dated October 1, 2002, appellant, through counsel, requested reconsideration.

By decision dated October 24, 2002, the Office modified its October 11, 2001 finding that the October 11, 2000 vehicular accident occurred, but that appellant had failed to establish that his medical conditions were caused by that incident.

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty on October 11, 2000.

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his claim, including the fact 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 is causally related to the employment injury.¹ As a part of this burden, the claimant must present rationalized medical evidence, based on a complete factual and medical background, showing causal relationship.²

¹ *Elaine Pendleton*, 40 ECAB 1143 (1989).

² *Joseph T. Gulla*, 36 ECAB 516 (1985).

In support of his claim, appellant submitted multiple medical reports as well as records relating to his October 11, 2000 vehicular accident. In a report dated May 15, 2001, Dr. David A. Wassil, appellant's treating osteopath, noted symptoms of neck and back pain. He also noted that appellant had old sports injuries and arthritic problems. This report fails to establish a causal relationship and in fact supports a nonwork-related causation of sports-related conditions. In his June 5, 2001 report, Dr. Wassil noted appellant's back symptoms but made no reference to causation or to the October 11, 2000 accident. In his July 17, 2001 report, he noted appellant's C6-7 condition, but again did not note any causal relationship with the October 11, 2000 accident. On September 3, 2002 Dr. Wassil noted by checking a box "yes," that appellant's back condition was caused by a vehicular accident on October 11, 2000. However, the Board has held that medical reports which establish causal relationship by checking a box "yes" is of limited probative value.³ Further, Dr. Wassil's report is dated two years from the time of the injury and lacks the quality of a contemporary medical report. His January 7 and January 25, 2002 reports were postsurgery treatment notes and made no reference to causal relationship.

In his February 19, 2002 report, Dr. Wassil noted recent magnetic resonance imaging scan results of a large disc at L2. This report also lacks any reference to a work-related causality.

Appellant also submitted multiple reports from Dr. Brian Hoeflinger, his treating physician and a Board-certified orthopedic surgeon. In a report dated July 27, 2001, he stated that appellant related an insidious onset of neck, shoulder and arm discomfort on the right side. He added that appellant "denies any inciting incident such as trauma or falling to account for the onset of symptoms." This report clearly provides no rationalized medical opinion to support his claim. Dr. Hoeflinger's subsequent reports dated August 10, November 15 and 16, December 14, 2001 and January 25 and March 5, 2002, provide evidence of disc protrusions at C6-7 and L2-3, a surgical summary and further review and chronicling of appellant's complaints of low back and bilateral lower extremity discomfort. However, at no time did he establish through a rationalized medical opinion that appellant's back conditions were causally related to the October 11, 2000 accident. The remaining reports provide diagnostic studies which do not establish a causal relationship.

An award of compensation may not be based on surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between his condition and his employment.⁴ To establish causal relationship, appellant must submit a physician's report, in which the physician reviews the factors of employment identified by appellant as causing his condition as well as findings upon examination of appellant and his medical history, state whether these employment factors caused or aggravated appellant's diagnosed condition.⁵ He failed to submit such evidence and, therefore, failed to discharge his burden of proof.

³ *Lee R. Haywood*, 48 ECAB 145 (1997).

⁴ *William S. Wright*, 45 ECAB 498 (1993).

⁵ *Id.*

The decision of the Office of Workers' Compensation Programs dated October 24, 2002 is affirmed.

Dated, Washington, DC
July 2, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member