

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN M. MYERS and U.S. POSTAL SERVICE,
BARRY WOODS STATION, Kansas City, MO

*Docket No. 03-1615; Submitted on the Record;
Issued January 20, 2004*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury in the performance of duty on December 4, 2002.

On December 5, 2002 appellant, then a 48-year-old letter carrier, filed a notice of traumatic injury (Form CA-1) alleging that, on December 4, 2002, while performing his duties, he sustained a low back injury when an empty floor truck he was pushing ran into unmarked pinned doors. The employing establishment indicated, on the reverse of the claim form, that appellant was treated on December 6, 2002 at St. Luke's Northland Hospital.

By letter dated December 11, 2002, the Office of Workers' Compensation Programs requested that appellant provide additional information. Specifically, he was requested to have his treating physician complete an enclosed Form CA-20, attending physician's report, which included a history of injury as given by him to the physician, a diagnosed condition and a medical opinion with supporting rationale addressing a causal relationship between a diagnosed condition and the December 4, 2002 incident, *i.e.*, an explanation of how the incident caused appellant's diagnosed condition. The Office noted that the evidence submitted thus far did not include a diagnosis nor relate to his employment. In completing the Form CA-20, the Office requested that appellant's doctor explain his answer. The Office allotted appellant 30 days within which to submit the requested information.

On December 23, 2002 the Office received a December 6, 2002 medical report by Dr. Glen D. Georger, an emergency room physician at St. Luke's Northland Hospital. He included the history of injury that appellant experienced back pain resulting from pushing a cart through the door, diagnosed back pain and notes that x-rays taken revealed degenerative disc disease.

By decision dated January 17, 2003, the Office denied appellant's claim, finding that the December 4, 2002 incident occurred as alleged, but that the medical evidence of record did not

establish that a condition was diagnosed as a result of the incident. Therefore, fact of injury was not established.

By an undated letter, received on February 19, 2003, appellant requested reconsideration of the January 17, 2003 decision. In support of the request, he submitted a December 17, 2002 surgeon's report by Dr. Georger who diagnosed low back pain and lumbalgia and indicated by answering "yes" to the question of whether the fact that appellant ran into a door with a large cart and jolted his back was the "only" cause of his condition. Additionally, appellant submitted an attending physician's report on February 19, 2003 dated December 4, 2002 by Dr. Georger who gave a history of injury of appellant "ran into door with a large cart, 'jolted my back' [complaints of] lower right side back pain" and checked "yes" to the question on whether appellant's condition was caused by his employment activity.

On February 25, 2003 the Office received a December 6, 2002 emergency department record by Dr. Georger who gave a history of on "December 4, 2002 [appellant] ran into door with large cart [and] 'jolted my back.'"

By decision dated May 8, 2003, after a merit review, the Office denied modification of its prior decision finding that the medical evidence of record failed to include a specific diagnosed condition or to causally relate a diagnosed condition to the December 4, 2002 employment incident.

The Board finds that appellant has failed to meet his burden of proof in establishing that he sustained an employment-related injury to his back on December 4, 2002.

An employee seeking benefits under the Federal Employees' Compensation Act 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 filed within the applicable time limitations 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."¹ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.²

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.³ In the instant case, there is no dispute that the claimed incident occurred at the time, place and in the manner alleged.

¹ *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

² *David J. Overfield*, 42 ECAB 718, 721 (1991).

³ *Elaine Pendleton*, *supra* note 1.

The second component of fact of injury is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁴ The Office found that the medical evidence was insufficient to support that appellant sustained an injury as a result of the incident.

In support of his claim, appellant submitted a December 4, 2002 attending physician's report by Dr. Georger which gave a history of injury, diagnosed low back pain and checked "yes" to the question on whether appellant's employment activity caused appellant's condition. The Board has held that, when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship. Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound medical reasoning.⁵ In a December 6, 2002 medical report, Dr. Georger diagnosed back pain.⁶ The report also noted that x-rays taken revealed degenerative disc disease. Dr. Georger's December 6, 2002 report failed to address a causal relationship between the back pain and the December 4, 2002 employment incident.⁷ Therefore, the report is insufficient to establish appellant's claim. Also submitted was a December 6, 2002 emergency department record by Dr. Georger who gave a history of on "December 4, 2002 [appellant] ran into door with large cart 'jolted my back' and noted complaints of lower right-sided back pain. The record did not provide an explanation on causal relationship. Thus, the December 6, 2002 emergency department record is insufficient to establish appellant's claim. In a December 17, 2002 surgeon's report, Dr. Georger gave a history of the December 4, 2002 employment incident, but noted the date as December 6, 2002⁸ and diagnosed back pain and lumbalgia. As in the other reports, Dr. Georger failed to causally relate the back pain to the December 4, 2002 employment incident. Therefore, the December 17, 2002 report is insufficient to establish appellant's claim. As he failed to submit medical evidence to support his claim, the Board finds that he has failed to meet his burden of proof.

⁴ *Kathryn Haggerty*, 45 ECAB 383 (1994); see 20 C.F.R. § 10.110(a).

⁵ *Ruth S. Johnson*, 46 ECAB 237 (1994).

⁶ The Board notes that the Office, in its May 8, 2003 decision, found that pain was not a diagnosed condition. However, the Board has held otherwise. See *Elaine Pendleton*, 40 ECAB 1143; *Kenneth F. Barcz*, 32 ECAB 414.

⁷ Dr. Georger did not discuss a causal relationship, such as aggravation, between the preexisting condition of degenerative disc disease revealed by x-ray and the December 4, 2002 employment incident.

⁸ This was done inadvertently as the doctor's other reports indicate the date of injury as December 4, 2002.

The decisions of the Office of Workers' Compensation Programs dated May 8 and January 17, 2003 are affirmed.

Dated, Washington, DC
January 20, 2004

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member