

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DIANA D. ARCEMENT and U.S. POSTAL SERVICE,
POST OFFICE, Kaplan, LA

*Docket No. 01-1819; Submitted on the Record;
Issued April 15, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether appellant has established that she sustained a medical condition in the performance of duty.

On February 4, 2000 appellant, then a 38-year-old letter carrier, filed a claim for an occupational disease alleging that she sustained a disc intrusion as a result of carrying mail. She stated that she was initially aware of her condition on January, 11, 2000 and that she was initially aware that her employment caused her condition on February 3, 2000.

By letter dated February 8, 2000, the Office of Workers' Compensation Programs advised appellant regarding the type of evidence she needed to process her claim.

In a report dated February 7, 2000, Dr. Steven Snatic, Board-certified in psychiatry and neurology, stated that appellant had neck pain and that she should be on temporary duty for about a month. In a duty status report dated April 3, 2000, Dr. Snatic stated that appellant was restricted from making deliveries and carrying her mailbag.

By decision dated May 2, 2000, the Office denied her claim. The Office stated that appellant established that she experienced the "claimed employment factor," but that the evidence failed to establish that a medical condition was caused by this incident.

By letter dated May 30, 2000, appellant requested a review of the written record.

In a report dated January 27, 2000 and received by the Office on May 23, 2000, Dr. Lawrence Mishlove, Board-certified in radiology, noted that a magnetic resonance imaging (MRI) scan taken that day revealed multilevel minimal disc protrusions, C3-4, C4-5, C5-6 and C6-7, noting also that it was without significant neural compression.

In a decision dated October 26, 2000, the hearing representative affirmed the Office's May 2, 2000 decision denying appellant's claim on the grounds that the medical evidence failed to establish that she sustained a neck injury while in the performance of duty.

By letter dated November 17, 2000, appellant request reconsideration. In support of her request, appellant submitted a November 8, 2000 report from Dr. Snatic who stated that appellant has neck pain and "no antecedent injury." She also submitted an October 25, 2000 duty status report from Dr. Snatic in which he diagnosed appellant with cervical spondylosis and returned appellant to restricted work for a week. In a report dated November 30, 2000, Dr. Snatic stated that he had been treating appellant since January 1999. He noted that appellant has had intermittent neck pain since 1997 and that there was no traumatic injury to cause this condition. Dr. Snatic noted that recent problems are a result of carrying a heavy mail bag which causes myofascial pain. He further noted that appellant had multilevel cervical degenerative disc disease "which may play a part in this." In a report dated December 5, 2000, Dr. Snatic stated that appellant should be restricted from carrying a mail bag and that she should carry mail in her arms.

By decision dated January 9, 2001, the Office denied modification of its May 2, 2000 decision.

By letter dated January 22, 2001, appellant, through counsel, requested reconsideration. In support of her request appellant submitted an April 12, 2001 prescription for a lumbar MRI scan, an April 12 and a May 8, 2001 report from Dr. Louis C. Blanda diagnosing back pain and prescribing physical therapy and an April 12, 2001 work status report from Dr. Blanda noting "no repetitive bending or squatting."

By decision dated June 27, 2001, the Office denied modification of its May 2, 2000 decision denying benefits.

The Board finds that appellant has failed to meet her burden of proof in establishing that she sustained a medical condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of her claim.² When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.³

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

¹ 5 U.S.C. §§ 8101-8193.

² See *Margaret A. Donnelley*, 15 ECAB 40 (1963).

³ See generally *John J. Carlone*, 41 ECAB 354 (1989); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(q) and (ee) ("occupational disease or illness" and "traumatic injury" defined); see *Donnelley*, *supra* note 2.

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. The second component is whether the employment incident caused a personal injury and generally can be established only by rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁴

Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician’s opinion.⁵

In this case, appellant has established an employment factor -- the carrying of mail by bag. However, she, has failed to meet her burden of proof for the reason that she has not submitted medical evidence establishing that the employment factor of carrying the mailbag resulted in a medical condition, either a disc inversion, neck pain or cervical spondylosis.

Appellant submitted multiple medical reports from her treating physician, Dr. Snatic, who is Board-certified in psychiatry and neurology. Although he diagnosed neck pain and cervical spondylosis, he did not submit a rationalized medical opinion to support his conclusion that appellant’s “recent problems are a result of carrying a heavy mailbag which causes mild myofascial pain.” For example, in his February and April 2000 reports, Dr. Snatic notes appellant’s condition and work restrictions, but failed to establish that her condition was causally related to her employment. Although he noted that appellant had no antecedent injury, this statement is insufficient to find that therefore, appellant’s current condition was causally related to her employment. Further, Dr. Mishlove, in his January 2000 report, noted multilevel minimal disc protrusions as revealed by an MRI scan, but he did not associate these protrusions with appellant’s work. Dr. Blanda’s April and May 2001 reports contained no opinion regarding causal relationship.

As appellant presented no rationalized medical opinions to establish causal relationship between appellant’s conditions and her employment factors, appellant has failed to submit the necessary medical evidence to meet her burden of proof and the Office properly denied her claim.

⁴ *Bonnie Goodman*, 50 ECAB 139 (1998).

⁵ *Jean Culliton*, 47 ECAB 728 (1996).

The decisions of the Office of Workers' Compensation Programs dated October 19, 2000 and January 9 and June 27, 2001 are affirmed.⁶

Dated, Washington, DC
April 15, 2002

Alec J. Koromilas
Member

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

⁶ As the May 2, 2000 decision was issued more than one year prior to the date of appellant's appeal to the Board on July 20, 2001, the Board does not have jurisdiction to review these decisions on appeal. 20 C.F.R. § 501.3(d)(2).