



Appellant submitted a note stating that he was treated by Dr. Roger Cagle, a Board-certified family medicine specialist, on December 6, 2005. In a November 15, 2005 duty status report, Dr. Cagle indicated that appellant reported being injured when he lifted a tray of mail on that day.

On December 12, 2005 the Office requested additional information concerning appellant's claim.

Appellant submitted treatment reports from Dr. Cagle dated September 20, 2004 and February 25 and November 28, 2005. Dr. Cagle listed appellant's complaint of back pain and diagnosed degenerative disc disease. A November 15, 2005 report related that appellant felt a pop in his back while picking up a mail tray on that date. Dr. Cagle diagnosed a lumbar sprain/strain and a herniated lumbar disc. He advised that appellant had a history of lumbago and degenerative disc disease. Dr. Cagle also noted that appellant had a history of lumbago and degenerative disc disease and diagnosed a herniated disc and low back pain. In a November 22, 2005 duty status report, he noted that appellant sustained a herniated disc and lumbar strain when lifting a mail tray.

In a February 22, 2005 report, Dr. Michael Higgins, a Board-certified radiologist, addressed a magnetic resonance imaging (MRI) scan of appellant's lumbar spine. He found mild posterior disc bulging at the L3-4 level and moderate posterior disc bulging at the L4-5 level. In a December 1, 2005 MRI scan, Dr. Jon D. Collier, a radiologist, noted "disc desiccation at L3-4 and L4-5 with disc bulges." He noted that appellant had back pain, right leg and foot pain over the previous eight months and that "he fell."

In a December 30, 2005 statement, appellant indicated that his back problems were caused by "walking daily and heavy lifting that you incur every day doing your job five to seven hours per day, walking, reaching on unstable and nonlevel surfaces ... also picking up heavy cases of mail."

By decision dated January 18, 2006, the Office denied appellant's claim on the grounds that the medical evidence of record did not establish that his back condition was causally related to the accepted work-related event.

On February 21, 2006 appellant requested an oral hearing. He later changed this to a request for reconsideration. In a March 9, 2006 report, Dr. Cagle stated that appellant complained of a back injury on November 15, 2005 after lifting a tray of mail. Dr. Cagle diagnosed lower back pain, muscle strain and herniated lumbar disc and referred appellant for an MRI scan. He concluded: "It is my professional opinion that [appellant's] condition is a result of his injury at work."

By decision dated April 11, 2006, the Office denied modification of its prior decision. The Office noted that appellant claimed to have been injured on February 8, 2005, yet waited until November 15, 2005 to file a claim. The Office concluded that the evidence did not support that the claimed work events occurred as alleged.

On June 1, 2006 appellant requested reconsideration and submitted an April 7, 2006 report from Dr. Cagle who stated that appellant had degenerative joint disease at L3-4 and L4-5,

lower back pain, a “small focal disc herniation component” at L4-5 and sciatica. Dr. Cagle noted that appellant initially injured his back on February 8, 2005 while lifting a tray of mail, but did not stop work until November 15, 2005 when he again injured his back a second time in the same manner. In a March 29, 2006 report, Dr. Cagle stated that appellant felt his back pop when he picked up a tray of mail at work. He diagnosed degenerative joint disease, disc herniation, lower back pain and sciatica and stated “It is my professional opinion that at the time of injury, [appellant] would have been unable to perform his duties at work which appear to involve standing, reaching, twisting and walking.” In a March 29, 2006 report, Dr. Cagle noted that appellant was injured on November 15, 2005 and returned with complaints of worsening pain on November 28, 2005. Appellant submitted an unsigned, undated report from the Paragould, AR, Veterans’ Administration clinic, stating that he injured his lower back on February 8, 2005.

Appellant also submitted a copy of a previous traumatic injury claim filed on February 10, 2005 stating that he injured his lower back, right leg and nerve when he bent down to pick up a mail tray on February 8, 2005.<sup>1</sup> In a February 3, 2006 report from the John J. Pershing Veterans Administration Medical Center, indicated that appellant reported injuring himself while lifting a tray of mail. Dr. Cagle diagnosed mild posterior disc bulges. In a June 1, 2006 decision from the Department of Veterans Affairs, denying vocational rehabilitation on the grounds that it was not reasonable to expect him to train for or work at a suitable job at that time, due to his medical limitations.

Appellant contended that the Office’s April 11, 2006 decision was confused on the issue of date of injury. He stated that he initially injured his back on February 8, 2005 and then reinjured it in the same manner on November 15, 2005. Appellant claimed that he was injured on two separate occasions. He stated that, although he intended to associate the two injuries, he did not intend to create the impression that he was filing a claim for the February 8, 2005 injury on November 15, 2005.

By decision dated September 6, 2006, the Office modified the April 11, 2006 decision to find that the claim filed was an occupational disease claim, but denied the claim on the grounds that the evidence did not establish that appellant sustained a medical condition due to established work factors.<sup>2</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>3</sup> has the burden of establishing the essential elements of his or her claim, including the fact that the

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<sup>1</sup> The record indicates that appellant’s claim for a traumatic injury occurring on February 8, 2005 was developed separately in Office File No. 162089757. The February 8, 2005 traumatic injury claim is not before the Board on the present appeal. See 20 C.F.R. §§ 10.5(q), (ee), for the Office’s definition of a traumatic injury and occupational disease.

<sup>2</sup> The Office noted that appellant had not filed a Form CA-1, claim for traumatic injury for any incident occurring on November 15, 2005. It advised that its decision only adjudicated whether appellant sustained an occupational disease due to the employment factors identified in appellant’s December 30, 2005 letter to the Office.

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged, and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

An occupational disease or injury is one caused by specified employment factors occurring over a longer period than a single shift or workday.<sup>6</sup> The test for determining whether appellant sustained a compensable occupational disease or injury is three-pronged. To establish the factual elements of the claim, appellant must submit: “(1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the factors identified by the claimant.”<sup>7</sup>

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. 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.<sup>8</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant<sup>9</sup> and must be one of reasonable medical certainty<sup>10</sup> explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>11</sup>

### ANALYSIS

The Board finds that appellant failed to meet his burden of proof in establishing that he developed an occupational disease in the performance of duty. Appellant filed an occupational disease claim stating that he sustained injury to his back when he lifted a tray of mail and felt a “pop,” apparently on February 8, 2005. On December 12, 2005 the Office’s requested additional

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<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> *D.D.*, 57 ECAB \_\_\_ (Docket No. 06-1315, issued September 14, 2006).

<sup>7</sup> *Michael R. Shaffer*, 55 ECAB 386, 389 (2004), *citing* *Lourdes Harris*, 45 ECAB 545 (1994); *Victor J. Woodhams*, *supra* note 5.

<sup>8</sup> *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>9</sup> *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>10</sup> *John W. Montoya*, 54 ECAB 306 (2003).

<sup>11</sup> *Judy C. Rogers*, 54 ECAB 693 (2003).

evidence. Appellant, in a December 30, 2005 letter, advised the Office that he attributed his claimed occupational disease to daily walking and lifting required by his job. Thus, he has identified employment factors alleged to have caused or aggravated a medical condition. The medical evidence also shows that appellant has been diagnosed with degenerative disc disease of the low back and herniated disc at L3-4 and L4-5.

However, the medical evidence is insufficient to establish that appellant's walking and lifting at work caused or contributed to his diagnosed low back condition. The medical evidence of record, particularly the reports of Dr. Cagle state that appellant injured his back while lifting a tray of mail. None of the medical reports of record characterize his condition as having been caused by repetitive stress, frequent walking or heavy lifting.

Dr. Collier's December 1, 2005 MRI scan is insufficient to establish the claim as he diagnosed a low back condition and stated that appellant "fell." He did not address how walking and lifting in appellant's work caused or aggravated the diagnosed conditions.

Dr. Cagle addressed causal relationship stating that it was his professional opinion that appellant's condition was caused by his injury at work. However, his report is premised on appellant's report that he injured himself while lifting a tray of mail. Dr. Cagle does not provide medical reasoning or rationale to explain how appellant's condition was related to a history of walking and lifting at work. While Dr. Cagle's reports might be germane to a claim for a traumatic injury occurring within one workday, they are of diminished probative value with regard to appellant's occupational disease claim. He did not address how the implicated employment factors caused or aggravated the diagnosed degenerative disc disease or contributed to the disc herniation.<sup>12</sup> Appellant has not submitted sufficient rationalized medical evidence from Dr. Cagle supporting that his diagnosed condition is causally related to his federal employment work activities. Other medical reports of record do not specifically address how walking and standing by appellant in his work caused or aggravated a diagnosed condition.

Appellant also submitted a decision from the Department of Veterans Affairs, denying his claim for vocational rehabilitation and employment services. This Department of Veterans Affairs decision, however, does not establish entitlement to benefits under the Act. The Board has previously held that the decisions of other administrative agencies or courts do not establish appellant's entitlement to rights under the Act.<sup>13</sup> Accordingly, appellant has not established his claim for an occupational disease.

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<sup>12</sup> See *supra* note 1 (regarding Office's definitions of traumatic injury and occupational disease).

<sup>13</sup> The Act is remedial in character and the Office has the duty of administering the provisions of the Act with regard to the rights of employees and the intent of Congress. *John J. Feeley*, 8 ECAB 576 (1956). The determination of an employee's rights or remedies under other statutory authority does not establish entitlement to benefits under the Act for disability. Under the Act, for a disability determination, the employee's injury must be shown to be causally related to an accepted injury or factors of employment. For this reason, the determinations of other administrative agencies or courts while instructive are not determinative with regard to disability under the Act. See *Daniel Deparini*, 44 ECAB 657 (1993); *George A. Johnson*, 43 ECAB 712 (1992); *Constance G. Mills*, 40 ECAB 317 (1988); *Fabian W. Fraser*, 9 ECAB 367 (1957).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof in establishing that he developed an occupational disease in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 6, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 5, 2007  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board