

FACTUAL HISTORY

This is the second appeal in this case.¹ By decision dated December 26, 2007, the Board affirmed Office decisions dated November 13, 2006 and June 25, 2007 that terminated appellant's wage-loss compensation and medical benefits. The law and the facts of the previous Board decision are incorporated herein by reference.

On January 5, 2008 appellant requested reconsideration and submitted additional evidence. In a June 1, 2007 report, Dr. Martin D. Fritzhand, a Board-certified urologist, reviewed appellant's medical history and provided findings on physical examination. He stated that appellant was injured on June 21, 2004 when he "picked up a great big industrial buffer." Appellant told him that a magnetic resonance imaging scan revealed some stenosis, some spurs and a couple of bulging discs. Dr. Fritzhand stated:

"[Appellant] is an elderly man who injured his low back in June 2004. Low back pain has persisted since then, and has remained refractory to medical management during this period. On physical examination, he ambulates with a limping gait and had difficulty forward bending at the waist. Range of motion studies are diminished. There is evidence of nerve root damage as the Achilles tendon reflexes are absent, muscle strength is diminished over the left lower extremity, and there is sensory loss involving the left leg. [Appellant] was an airport screener, but has found it difficult to perform his usual and customary work chores. He is unable to lift heavy objects, and notes pain and discomfort involving the low back when attempting to weight-bear, ambulate or stand for more than short periods of time. [Appellant] finds it difficult to forward bend. He has similar difficulties at home. Prolonged sitting also exacerbates [appellant's] ongoing back pain. His subjective symptoms are certainly corroborated by the objective findings described above...."

In a November 10, 2007 report, Dr. Fritzhand stated that he had reviewed the medical records regarding appellant's June 21, 2004 lumbosacral sprain/strain. He stated:

"[T]he [Office] has terminated compensation due to the apparent resolution of [appellant's] work-related injury. I certainly disagree with this decision. In fact, if one would carry forth this logic[,] all diagnoses of lumbosacral strain would lack causal relationship to ongoing low back pain. Dr. Ray is certainly in agreement with my conclusions. He is of the opinion that [appellant's] ongoing low back pain is in fact related to the June 2004 injury, and that he has reached maximum medical improvement, *i.e.*, his disability is permanent. Dr. Wolf is a

¹ See Docket No. 07-1930 (issued December 26, 2007). On June 21, 2004 appellant, then a 61-year-old transportation passenger screener, sustained a lumbosacral sprain/strain when a housekeeping buffer on a rolling stand slipped and he held the buffer to prevent it from falling off the stand. The Office placed appellant on the periodic compensation rolls for temporary total disability as of August 12, 2004. His application for disability retirement was effective on March 24, 2005. The Office terminated his wage-loss compensation and medical benefits effective November 13, 2006. The termination decision was based on the medical opinion of Dr. John W. Wolf, a Board-certified orthopedic surgeon, selected to resolve a conflict in the medical evidence.

well regarded orthopedist in Cincinnati. Nonetheless, I disagree with his conclusions. It would be quite difficult (if not impossible) to sort out the causes of [appellant's] low back pain assigning percents and causation. He is obese, has (preexisting) lumbosacral spondylosis, (preexisting) spinal stenosis and has also sustained the allowed condition 'lumbosacral spine strain' which has exacerbated all of the above. His level of pain is worse than before his June 2004 injury indicating a permanent disability. Deconditioning also contributes to his pain and discomfort. However, it is certainly apparent that *all* of the above contribute to the causal relationship of [appellant's] pain. Thus, it is my medical opinion that the causal relationship of the allowed condition to ongoing complaints is established, and he is entitled to just compensation." (Emphasis in the original.)

On January 15, 2008 the Office found that appellant failed to meet his burden of proof to establish that he had any medical condition or disability after November 13, 2006 causally related to his June 21, 2004 employment-related lumbosacral sprain/strain.

LEGAL PRECEDENT

Where the Office meets its burden of proof in justifying termination of compensation benefits, the burden is on the claimant to establish that any subsequent disability is causally related to the employment injury.² To establish a causal relationship between a claimant's accepted injury and his ongoing medical problems, he must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship.³ Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁴

Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's 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.⁵ Neither the mere fact that the disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁶

² See *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Wentworth M. Murray*, 7 ECAB 570 (1955) (after a termination of compensation benefits warranted on the basis of the medical evidence, the burden shifts to the claimant to show by the weight of the reliable, probative and substantial evidence that, for the period for which he claims compensation, he had a disability causally related to the employment resulting in a loss of wages).

³ *Michael S. Mina*, 57 ECAB 379 (2006).

⁴ *Id.*

⁵ *Gary J. Watling*, 52 ECAB 278 (2001); *Gloria J. McPherson*, 51 ECAB 441 (2000).

⁶ *Michael S. Mina*, *supra* note 3.

ANALYSIS

The Board finds that, following the proper termination of his compensation and medical benefits on November 13, 2006, appellant failed to establish that he had any continuing disability or medical condition causally related to his June 21, 2004 employment-related lumbosacral sprain/strain.

Dr. Fritzhand stated that appellant was injured on June 21, 2004 when he “picked up a great big industrial buffer.” However, this is not an accurate history of his medical condition. The record shows that appellant did not lift the buffer; he held it in place to keep it from falling off its stand. Additionally, Dr. Fritzhand did not address appellant’s 10-year history of back conditions and chronic pain except to note that a magnetic resonance imaging scan revealed some stenosis and spurs and a couple of bulging discs. On physical examination, appellant ambulated with a limping gait and had difficulty forward bending at the waist. Range of motion of the lower extremities was diminished. There was evidence of nerve root damage in the left lower extremity. Appellant was unable to lift heavy objects and noted pain and discomfort in his low back when attempting to weight-bear, ambulate or stand for more than short periods of time. Prolonged sitting exacerbated his back pain. Dr. Fritzhand stated that appellant’s subjective symptoms were corroborated by the objective findings. He stated that his ongoing low back pain was related to his June 21, 2004 injury and he had permanent disability. However, Dr. Fritzhand’s opinion on causal relationship is of diminished probative value because it is not based on an accurate history of how the accepted June 21, 2004 injury occurred and did not include a discussion of appellant’s preexisting back conditions. Dr. Fritzhand did not discuss the current nature of appellant’s accepted lumbosacral sprain/strain or how he determined that this condition had not resolved, except to note complaints of pain. He stated that it was difficult to sort out the causes of appellant’s low back pain. Dr. Fritzhand noted that appellant’s level of pain was worse than before his June 21, 2004 injury. However, he did not provide a rationalized explanation as to how he determined that appellant’s worsening pain was due to his accepted June 21, 2004 injury rather than to a worsening or progression of his other back conditions. Additionally, the opinions of physicians who have training and knowledge in a specialized medical field have greater probative value concerning medical questions peculiar to that field than do the opinions of other physicians.⁷ The medical condition in this case is musculoskeletal in nature. Dr. Fritzhand is a Board-certified urologist whereas Dr. Wolf is a Board-certified orthopedic surgeon. Due to these deficiencies, the Board finds that the reports of Dr. Fritzhand are not sufficient to overcome or create a conflict with the opinion of Dr. Wolf. Consequently, appellant has not met his burden of proof to establish that he has any disability or medical condition after November 13, 2006 causally related to his June 21, 2004 lumbosacral sprain/strain.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he had any disability or medical condition after November 13, 2006 causally related to his June 21, 2004 work-related lumbosacral sprain/strain.

⁷ *Mary S. Brock*, 40 ECAB 461 (1989).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 15, 2008 is affirmed

Issued: August 18, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board