

noted that appellant experienced an acute onset of back pain on December 19, 2007 originating from an incident three weeks earlier. The initial diagnosis was an acute exacerbation of chronic recurrent back pain. Appellant had an 18-month history of back pain and underwent a medial fasciectomy and foraminotomy at L4-5 with microdiscectomy at L2-3. Dr. Valentine noted that the initiating event for the back pain was not clear but appellant's chronic low back pain was most likely due, in part, to his work as a mail handler. Appellant's job, which involved long periods of standing, lifting and bending for 30 years, most likely contributed to the evolution of his low back problems.

On June 23, 2009 the Office asked appellant to provide a comprehensive medical report from his treating physician containing a diagnosis, results of examinations and tests, treatment provided and a rationalized opinion on the causal relationship between the diagnosed condition and his employment duties.

In an undated form report received by the Office on July 13, 2009, Dr. Valentine diagnosed recurrent exacerbations of low back pain with sciatica beginning November 30, 2007. Appellant typically required 5 to 10 days off work to recover for each exacerbation.

On July 28, 2009 Dr. Keith A. Kattner, an attending neurosurgeon, noted that he began treating appellant for low back pain on October 13, 1997. On December 23, 2008 appellant provided a history of low back pain beginning the winter of 2007. A magnetic resonance imaging (MRI) scan revealed a small disc herniation at L2-3 on the left. A previous discectomy was performed in 2006. Appellant had chronic low back pain but developed severe left leg pain after raking leaves in the fall of 2007. A January 16, 2009 MRI scan revealed lateral recess stenosis at L4-5 and a herniated disc at L2-3. Dr. Kattner opined that his job as a mail clerk for 30 years was a contributing factor to his low back condition.

By decision dated August 17, 2009, reissued on August 21, 2009, the Office denied appellant's claim on the grounds that the medical evidence did not establish that his back conditions were causally related to employment factors.

On September 18, 2009 appellant requested a review of the written record. In a September 17, 2009 report, Dr. Kattner noted that appellant's job required standing on a concrete floor for at least eight hours a day, lifting packages weighing up to 70 pounds, throwing packages, twisting and turning and pushing mail containers to the dock. Appellant performed these tasks for 18 years. For the previous 12 years he cased mail for most of his workday, standing on a concrete floor. Appellant also carried trays or tubs of mail weighing 5 to 15 pounds and pushed containers. Dr. Kattner opined: "[I]t seems this type of work could be contributory to the cause of his condition of ill-being, regarding the condition of his low back." On November 12, 2009 Dr. Valentine noted that he had treated appellant since December 19, 2007 for a back injury. During his 30-year employment, appellant worked several positions that required repetitive motion. For 18 years, he performed a position where he stood on a concrete floor and lifted packages weighing up to 70 pounds from a conveyor belt and threw them into a container. This involved twisting and turning. Appellant had to empty mail pouches weighing up to 70 pounds into a container and push the container to the dock. Dr. Valentine opined that appellant's work had a direct impact on his physical well being. The repetitive motions caused damage to his spine.

By decision dated December 14, 2009, an Office hearing representative affirmed the August 17, 2009 decision.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.¹ Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.²

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that an employee's claimed condition became apparent during a period of employment, nor his belief that his condition was aggravated by his employment, is sufficient to establish causal relationship.³

ANALYSIS

The Board finds that appellant failed to meet his burden of proof to establish that his sciatica and herniated discs were causally related to factors of his employment.

Dr. Valentine noted that appellant experienced an acute onset of back pain on December 19, 2007 stemming from an incident three weeks earlier. The diagnosis was an acute exacerbation of chronic recurrent back pain. Appellant had an 18-month history of back pain and underwent a medial fasciectomy and foraminotomy at L4-5 with microdiscectomy at L2-3. Dr. Valentine noted that the cause of appellant's chronic low back pain was not clear but was most likely due, in part, to his work as a mail handler. Appellant's job involved long periods of standing, lifting and bending for 30 years and most likely contributed to the evolution of his low back problems. For 18 years, he performed a position where he stood on a concrete floor and lifted packages weighing up to 70 pounds from a conveyor belt and threw them into a container. This involved twisting and turning. Appellant emptied mail pouches weighing up to 70 pounds into a container and pushed the container to the dock. Dr. Valentine opined that the repetitive

¹ See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

² *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

³ *D.I.*, 59 ECAB ____ (Docket No. 07-1534, issued November 6, 2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

motions required in appellant's job caused damage to his spine. His reports are not sufficient to establish causal relationship. Dr. Valentine did not provide findings on physical examination or objective test results. He opined that appellant's job damaged his spine but did not explain the mechanism of injury, the way in which specific job activities caused damage to specific areas of the spine. Dr. Valentine did not provide a comprehensive report, based on a complete and accurate factual background, containing physical findings, objective test results and a rationalized opinion as to how his job factors caused or aggravated his back condition. His reports are not sufficient to establish a work-related back condition.

Dr. Kattner noted that appellant had a long history of low back pain and developed severe left leg pain after raking leaves in the fall of 2007. He opined that appellant's job as a mail clerk for 30 years was a contributing factor to his low back condition. Dr. Kattner noted that appellant's job required standing on a concrete floor for at least eight hours a day, lifting packages weighing up to 70 pounds, throwing packages, twisting and turning and pushing mail containers. He performed these tasks for 18 years. For the previous 12 years, appellant cased mail for most of his workday, standing on a concrete floor. Dr. Kattner opined that his work activities could have contributed to his low back condition. His opinion is speculative in that he found appellant's job "could" have contributed to his back condition. Dr. Kattner did not provide a comprehensive report, based on a complete and accurate factual background, containing physical findings, a firm diagnosis and rationalized explanation as to how his back condition was causally related to specific job activities. Therefore, his reports are not sufficient to establish that appellant's back condition was caused or aggravated by factors of his employment.

The Office explained to appellant the type of medical evidence needed to establish his claim. It requested a comprehensive report from his treating physician with a diagnosis, results of examinations and tests, treatment provided and the doctor's rationalized opinion on the causal relationship between the diagnosed condition and his employment duties. Appellant failed to provide such medical evidence. He did not meet his burden of proof to establish that his back condition was caused or aggravated by factors of his employment. The Office properly denied appellant's claim.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that his sciatica and herniated discs were causally related to factors of his employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 14, 2009 be affirmed.

Issued: October 13, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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