

FACTUAL HISTORY

On August 24, 2006 appellant, then a 53-year-old mail handler, filed a traumatic injury claim alleging that he was unlocking his chair on that date when he bent and slightly twisted his back. The employing establishment controverted the claim.

On September 14, 2006 the Office advised appellant that additional factual and medical evidence was needed. The Office explained that a physician's opinion was crucial to his claim and allotted appellant 30 days within which to submit the requested information.

In a September 8, 2006 statement, Bethany Sadler, a human resources specialist for the employing establishment, noted that appellant had submitted several claims for the same injury that were denied.² She alleged that his back condition was preexisting.

In support of his claim, appellant submitted discharge instructions dated August 24, 2006, an information sheet on back pain, instructions related to taking a Medrol dose pack and a prescription for Medrol.

By decision dated October 17, 2006, the Office denied appellant's claim. The Office found that the evidence supported that the claimed incident occurred as alleged; however, the medical evidence did not provide a diagnosis which could be connected to the work-related event.

On January 2, 2007 appellant requested reconsideration. The Office subsequently received an August 25, 2006 report from Dr. Michael D. Bain, a physician of unknown specialty. Dr. Bain noted appellant's history of injury and treatment, which included a history of "chronic back pain and shoulder pain." He diagnosed muscular back pain. In an October 20, 2006 magnetic resonance imaging (MRI) scan, Dr. Kyung M. Noh, a Board-certified diagnostic radiologist, diagnosed an old compression fracture of the superior endplate of L1, degenerative spondylosis of the lower spine and concentric bulging at L5-S1 as well as far lateral protrusion at L4-5 without nerve root compression. In a November 13, 2006 report, Dr. Alfred Kahn, a Board-certified orthopedic surgeon, noted appellant's history noting that he was at work when he tried to get a lockbox from his chair and felt a sharp pain in his back when he unlocked it. He conducted a physical examination and diagnosed a new compression, which he opined was "secondary" to his "work injury." Dr. Kahn also diagnosed severe degenerative disc disease and early abdominal aneurism.

By decision dated March 29, 2007, the Office denied modification of its October 17, 2006 decision.

² Claim Nos. 09-2068466, 06-2082578, 06-2108236.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ 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 timely filed within the applicable time limitation period of the Act⁴ and that an injury was sustained in the performance of duty.⁵ These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

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. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.⁷ The employee must also submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁸ The medical evidence required to establish causal relationship is usually rationalized medical 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. 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.⁹

ANALYSIS

The evidence supports that appellant, on August 24, 2006, was unlocking his chair as alleged. Therefore, the Board finds that the first component of fact of injury is established.

However, the medical evidence is insufficient to establish the second component of fact of injury, that the employment incident caused an injury. The medical reports of record do not establish that the activities of unlocking his chair and bending while at work caused a personal

³ 5 U.S.C. §§ 8101-8193.

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *James E. Chadden Sr.*, 40 ECAB 312 (1988).

⁶ *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *See John J. Carlone*, 41 ECAB 354, 357 (1989).

⁸ *Id.* For a definition of the term "traumatic injury," see 20 C.F.R. § 10.5(ee).

⁹ *D.E.*, 58 ECAB ____ (Docket No. 07-27, issued April 6, 2007).

injury on August 24, 2006. The medical evidence contains no reasoned explanation of how the employment incident of August 24, 2006 caused or aggravated an injury.¹⁰

In a November 13, 2006 report, Dr. Kahn noted appellant's history of injury and treatment and diagnosed a new compression, which he opined was secondary to his "work injury." He also noted that appellant had severe degenerative disc disease and early abdominal aneurism. However, Dr. Kahn did not provide a rationalized opinion to explain how he arrived at the conclusion that appellant's new compression was secondary to the accepted work incident. This is particularly important in light of appellant's preexisting degenerative disc disease. For example, the physician did not explain the medical reasons why the August 24, 2006 employment incident caused or aggravated the diagnosed condition and why such condition was not attributable to appellant's preexisting degenerative condition. Thus, this report is of limited probative value.

In support of his claim, appellant submitted an August 25, 2006 report from Dr. Bain, who noted that his history of injury and treatment included "chronic back pain and shoulder pain." Dr. Bain diagnosed muscular back pain, but offered no opinion on causal relationship.¹¹ Likewise, appellant submitted an October 20, 2006 MRI scan from Dr. Noh. However, Dr. Noh merely reported findings and did not provide any opinion regarding the cause of the reported condition. Consequently, these reports are insufficient to establish appellant's claim.

Because the medical reports submitted by appellant do not address how the August 24, 2006 incident at work caused or aggravated a back condition, these reports are insufficient to establish that the employment incident caused or aggravated a specific injury.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty on August 24, 2006.

¹⁰ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

¹¹ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated March 29, 2007 and October 17, 2006 are affirmed.

Issued: December 20, 2007
Washington, DC

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

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

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