

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FRANCISCO TAN and U.S. POSTAL SERVICE,
POST OFFICE, Scottsdale, AZ

*Docket No. 02-1709; Submitted on the Record;
Issued January 16, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant sustained an injury to his back in the performance of duty.

On December 7, 2001 appellant, then a 57-year-old distribution clerk, filed a claim for occupational disease, alleging that his back pain and leg numbness were caused by his employment. He was aware of his condition on January 10, 2001 and that it was caused by his employment on February 10, 2001. Appellant stated that his routine job consisted of pulling cages that contained magazines, each of which weighed between 300 to 1,200 pounds, pulling pallet boards which weighed between 1,000 and 1,500 pounds, lifting parcels weighing between 51 and 80 pounds, bending and lifting small parcels inside a hamper and lifting sacks of check books weighing 50 pounds each.

On January 7, 2002 the Office of Workers' Compensation Programs advised appellant regarding the evidence he needed to submit in support of his claim.

In a report dated March 14, 2001, Dr. Richard S. Sherry, Board-certified in radiology, stated that a magnetic resonance imaging (MRI) scan taken that day revealed degenerative disc disease at L4-5, mild facet osteoarthritis at L4-5, mild Grade I dorsal spondylolisthesis of L5, moderate spinal stenosis at L4-5 and moderate bilateral L4-5 neural foramen narrowing.

In a report dated April 30, 2001, Dr. Stephen Borowsky, Board-certified in anesthesiology, noted that appellant had low back pain and left lower leg pain and that an MRI scan revealed disc bulge at L4-5, facet arthritis, spondylolisthesis, L4-5 stenosis and bilateral foraminal narrowing.

The Board finds that appellant has not met his burden of proof establishing that he sustained an injury to his low back in the performance of his duty.

By decision dated March 13, 2002, the Office denied appellant's claim.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.²

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.³

In this case, the medical evidence consists of a March 14, 2001 report from Dr. Sherry stating that appellant had multiple conditions with respect to his spine including degenerative disc disease, facet osteoarthritis, dorsal spondylolisthesis, spinal stenosis and bilateral L4-5 neural foramen narrowing. An April 30, 2001 note from Dr. Borowsky addressed appellant's low back and left lower leg pain. However, these reports provide merely diagnoses: they do not include a rationalized explanation as to how appellant's diagnosed back conditions were caused or aggravated by his employment. As these reports do not contain adequate medical rationale supporting appellant's allegation that his back condition was employment related, the Board finds that these reports are of diminished probative value.⁴

Since appellant has not submitted sufficient medical evidence establishing a causal relationship between his employment and his back condition and, therefore, he has failed to meet his burden of proof.

¹ 5 U.S.C. §§ 8101-8193.

² *Trina Bornejko*, 53 ECAB ____ (Docket No. 01-1118, issued February 27, 2002).

³ *Allen C. Hundley*, 53 ECAB ____ (Docket No. 02-107, issued May 17, 2002).

⁴ *See Elizabeth W. Esnil*, 46 ECAB 606 (1995).

The decision of the Office of Workers' Compensation Programs dated March 13, 2002 is affirmed.

Dated, Washington, DC
January 16, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member