



In notes and reports dated November 9 to 16, 2005, Dr. Blayre Tuggle diagnosed a lumbar strain and contusion sustained on November 9, 2005 as a result of a motor vehicle accident. He checked the block marked “yes,” indicating that the conditions were causally related to appellant’s employment.

In a November 10, 2005 report, Dr. Ronald B. Taylor, a Board-certified specialist in emergency medicine, indicated that appellant was injured on November 9, 2005 as a result of a motor vehicle accident. He did not provide a diagnosis.

By decision dated December 28, 2005, the Office denied appellant’s claim on the grounds that the medical evidence did not establish that her diagnosed lumbar conditions were caused by the work-related November 9, 2005 motor vehicle accident.<sup>1</sup>

### **LEGAL PRECEDENT**

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the “fact of injury” has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.<sup>2</sup> Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.<sup>3</sup> An employee may establish that the employment incident occurred as alleged but fail to show that her disability or condition relates to the employment incident.

To establish a causal relationship between appellant’s condition and any attendant disability claimed and the employment event or incident, she must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. 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 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.<sup>4</sup>

---

<sup>1</sup> Appellant submitted additional evidence subsequent to the Office decision of December 28, 2005. The Board’s jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

<sup>2</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>3</sup> *Shirley A. Temple*, 48 ECAB 404 (1997).

<sup>4</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, *supra* note 3.

### ANALYSIS

The Board finds that this case is not in posture for a decision and requires further development of the evidence. Although the reports of Dr. Tuggle and Dr. Taylor do not contain sufficient medical rationale explaining how appellant's lumbar strain and contusion were causally related to the work-related motor vehicle accident of November 9, 2005, they raise an uncontroverted inference of causation between her lumbar conditions and the November 9, 2005 work incident. Dr. Tuggle, in reports dated November 9, 11 and 16, 2005, diagnosed a lumbar strain and contusion sustained November 9, 2005 as a result of the accepted motor vehicle accident. In the November 11 and 16, 2005 reports, he checked the block marked "yes," indicating that the conditions were causally related to appellant's employment. In a November 10, 2005 report, Dr. Taylor indicated that appellant was injured on November 9, 2005 as a result of a motor vehicle accident. The Board finds that the reports of Dr. Tuggle and Dr. Taylor are sufficient to require further development of the medical evidence.<sup>5</sup> On remand, the Office should further develop the medical evidence on the issue of whether appellant's diagnosed lumbar conditions were caused or aggravated by the November 9, 2005 work-related motor vehicle accident. After such further development as it deems necessary, the Office should issue an appropriate decision on appellant's claim for a work-related injury on November 9, 2005.

### CONCLUSION

The Board finds that this case requires further development on the issues of whether appellant sustained an injury to her lumbar spine as a result of the November 9, 2005 motor vehicle accident.

---

<sup>5</sup> See *John J. Carlone*, *supra* note 2; *Horace Langhorne*, 29 ECAB 820 (1978). The Board notes that, in the present case, the record contains no medical opinion contrary to appellant's claim and further notes that the Office did not seek advice from an Office medical adviser or refer the case to an Office referral physician for a second opinion.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 28, 2005 is set aside and the case remanded for further development consistent with this decision.

Issued: May 22, 2006  
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