United States Department of Labor
Employees' Compensation Appeals Board

G.K., Appellant	)	
and	)	**Docket No. 07-108**
	)	**Issued: March 27, 2007**
FEDERAL JUDICIARY, U.S. BANKRUPTCY COURT, Miami, FL, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 16, 2006 appellant filed a timely appeal from the August 17, 2006 merit decision of the Office of Workers' Compensation Programs, which denied his claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of appellant's case.

ISSUE

The issue is whether appellant sustained an injury in the performance of duty on October 17, 2005.

FACTUAL HISTORY

On October 18, 2005 appellant, then a 60-year-old property and procurement specialist, filed a claim alleging that he sustained a low back injury in the performance of duty the previous day: "I picked up 10 cases of envelopes from the mailroom on the 1st floor and transported them to the 15th floor. Having reached the storeroom I began checking in the envelopes and while moving one of the cases I experienced excruciating pain in my back."

On December 12, 2005 Dr. Bernard Gran, a consulting neurologist, related what happened on October 17, 2005: "[Appellant] was picking up boxes and then slinging them to his right and developed left lower back pain. He rested for a while picked up a box again and the pain came back." Dr. Gran noted a motor vehicle accident two years earlier, but appellant denied injury. He continued: "I do have her [sic] report of [computerized tomography] scan or lumbar spine performed on November 10, 2005 which revealed at the L4-5 level a central and left paracentral herniated disc."

On December 16, 2005 Dr. John T. McAdory, appellant's family practitioner, noted the history "hurt back lifting at work." He diagnosed lumbar disc herniation with left radiculitis and with an affirmative mark indicated that this condition was caused or aggravated by an employment activity.

Dr. Gran examined appellant on January 3 and February 3, 2006. He diagnosed a small lumbar herniated disc with no evidence of lumbar radiculopathy. Appellant underwent physical therapy.

On July 12, 2006 the Office asked appellant to submit additional information to support his claim, including his physician's opinion, supported by medical explanation, as to how the reported work incident caused or aggravated the claimed injury. "This explanation is crucial to your claim," the Office advised. The Office acknowledged a diagnosis of a central and left paracentral herniated disc at the L4-5 level but noted that there was no medical rationale establishing that this condition was caused or aggravated by the October 17, 2005 work incident.

In a decision dated August 27, 2006, the Office denied appellant's claim for compensation. The Office found that the medical evidence did not explain how the October 17, 2005 employment activities caused or aggravated the L4-5 central and left paracentral herniated disc.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.[2]

Causal relationship is a medical issue,[3] and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete

[1] 5 U.S.C. §§ 8101-8193.

[2] *See generally John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993).

[3] *Mary J. Briggs*, 37 ECAB 578 (1986).

factual and medical background of the claimant,[4] must be one of reasonable medical certainty[5] and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.[6]

ANALYSIS

The Office does not dispute appellant's activities on October 17, 2005. Appellant explained that he transported boxes of envelopes to the 15th floor, began checking in the envelopes and while moving one of the cases experienced back pain. Dr. Gran, the consulting neurologist, noted that appellant was slinging the boxes to his right and developed left lower back pain. Appellant has established that he experienced a specific event or incident occurring at the time, place and in the manner alleged. The question that remains is whether this incident caused an injury.

Dr. McAdory, the attending family practitioner, submitted a report dated December 16, 2005. He indicated with an affirmative mark that an employment activity caused or aggravated appellant's lumbar disc herniation with left radiculitis. This, however, is not enough to establish the claim. The Board has held that, when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.[7] Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound medical reasoning. As the Office notified appellant on July 12, 2006, such explanation is crucial to his claim. Because Dr. McAdory did not explain how he came to his opinion, his December 16, 2005 form report is not sufficient to establish that appellant sustained an injury in the performance of duty on October 17, 2005.

On appeal, appellant points to the December 12, 2005 report of Dr. Gran, the consulting neurologist, who reported appellant's work activity on October 17, 2005 and that a November 10, 2005 electrodiagnostic study revealed an L4-5 central and left paracentral herniated disc. Dr. Gran did not address the causal relationship between the two. He offered no opinion on whether appellant's work activities on October 17, 2005 caused the herniated disc; or if the herniated disc was preexisting, whether appellant's work activities aggravated it. Without an opinion on causal relationship, Dr. Gran's report is of diminished probative value to establish appellant's claim for compensation.[8]

[4] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[5] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[6] *See William E. Enright*, 31 ECAB 426, 430 (1980).

[7] *E.g., Lillian M. Jones*, 34 ECAB 379 (1982).

[8] As with Dr. McAdory's form report, a bare opinion without sound medical reasoning is of little value. To establish the element of causal relationship, Dr. Gran would have to offer not only an opinion on causal relationship but he would have to clarify to the Office why his opinion is sound, logical and medically rational.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty on October 17, 2005.

ORDER

IT IS HEREBY ORDERED THAT the August 17, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 27, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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