United States Department of Labor
Employees' Compensation Appeals Board

A.D., Appellant	)	
and	)	**Docket No. 10-1100**
	)	**Issued: December 6, 2010**
U.S. POSTAL SERVICE, POST OFFICE, St. Clair Shores, MI, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 15, 2010 appellant, through her representative, filed a timely appeal from the February 22, 2010 merit decision of the Office of Workers' Compensation Programs, which denied her claim that she sustained an employment injury. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of the case.

ISSUE

The issue is whether appellant established that she sustained an injury in the performance of duty due to falls at work on February 19, 2008, as alleged.

FACTUAL HISTORY

This case has previously been before the Board.[1] The Office accepted that appellant, a letter carrier, twice slipped and fell on the ice while in the performance of duty on February 19, 2008. In a July 27, 2009 decision, the Board found, however, that the medical evidence did not establish the critical element of causal relationship. The Board affirmed the

[1] Docket No. 09-192 (issued July 27, 2009).

Office's October 3, 2008 decision denying appellant's claim for compensation benefits. The facts of this case as set out in the Board's prior decision are incorporated by reference.

Appellant requested reconsideration and submitted additional medical evidence, including rehabilitation services treatment records from the Henry Ford Health System.[2] She also submitted a note from Dr. Monica Lee, her obstetrician/gynecologist: "I have reviewed [appellant's] medical visits with me dating back from February 2002 and find no documentation of complaints of any back pain prior to her fall February 19, 2008."

Dr. Varsha S. Revankar, appellant's former internist, noted that an x-ray taken after appellant gave birth showed a minimal degenerative joint disease and osteitis condensans ilii. A magnetic resonance imaging (MRI) scan showed the same. Dr. Revankar stated: "I understand this condition [osteitis] is aggravated by pregnancy but it can be aggravated by any kind of stressful situation in this patient this can be due to the fall and the pregnancy." She again observed that appellant did not have pain before the fall. Dr. Revankar added: "The diagnosis of osteitis is only made by x-ray which was not possible as the patient was pregnant. Since the patient had back pain after the fall, I would still say the cause of the low back pain as when we saw the patient was from injury-lumbar strain."

Dr. Brian D. Titesworth, appellant's subsequent internist, explained that studies had to be postponed because of appellant's pregnancy. He noted that she did not have back pain prior to the incident and that her condition did not improve following the birth of her child more than five months ago, but he added that her condition slowly improved and that she has returned to work with restrictions.

On February 22, 2010 the Office denied modification of its October 5, 2008 decision. It found that the medical evidence failed to establish that the diagnosed conditions were causally related to the work incidents on February 19, 2008.

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.[3] An employee seeking benefits under the Act has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.[4]

[2] Appellant resubmitted a July 8, 2008 treatment note considered by the Board on the prior appeal.

[3] 5 U.S.C. § 8102(a).

[4] *John J. Carlone*, 41 ECAB 354 (1989).

Causal relationship is a medical issue,[5] 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 factual and medical background of the claimant,[6] must be one of reasonable medical certainty,[7] 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.[8]

The Board has held that when a physician concludes that a condition is causally related to an employment because the employee was asymptomatic before the employment incident, the opinion is insufficient, without supporting medical rationale, to establish causal relationship.[9]

Although the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal.[10]

ANALYSIS

The rehabilitation services treatment records from the Henry Ford Health System offer no rationalized medical opinion explaining how the February 19, 2008 incidents at work caused a diagnosed medical condition. They are of diminished probative value in establishing appellant's claim for benefits.

Dr. Lee, the obstetrician/gynecologist, merely observed that she could find no documentation of back pain prior to the February 19, 2008 incident. As the Board explained in the prior appeal, while a temporal relationship may be consistent with an injury, it is not sufficient to establish causal relationship. Dr. Lee provided no additional explanation as to how the February 19, 2009 incident cause a diagnosed medical condition. Her opinion has little probative value.

Dr. Revankar, appellant's former internist, similarly repeated that appellant did not have pain before the fall. She noted that radiological testing showed minimal degenerative joint disease, but she made no attempt to connect that medical condition to what happened on

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

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

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

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

[9] *Thomas D. Petrylak*, 39 ECAB 276 (1987).

[10] *Philip J. Deroo*, 39 ECAB 1294 (1988); *Jennifer Beville*, 33 ECAB 1970 (1982) (statement of a Board-certified internist that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value).

February 19, 2008. Dr. Revankar also noted the presence of osteitis and stated that "it can be aggravated" by any kind of stressful situation and "can be" due to the fall and the pregnancy. The Board finds this opinion speculative and of diminished probative value. Dr. Revankar acknowledged only to the possibility of aggravation; she offered no medical explanation that such an aggravation actually occurred. She added that appellant suffered a lumbar strain "since the patient had back pain after the fall," but again, she offered no explanation. Dr. Revankar identified no injured muscle, cited no contemporaneous complaints or clinical findings that would be consistent with lumbar strain and offered no rational explanation of how one or both of the falls on February 19, 2008 caused a lumbar strain.

Dr. Titesworth, appellant's subsequent internist, noted that appellant did not have back pain prior to the incident and that her condition did not improve following the birth of her child more than five months prior. He appeared to contradict himself by adding that her condition did slowly improve such that she was able to return to work with restrictions, but again, the deficiency in this evidence is the physician's heavy reliance on the temporal sequence of events without a sound medical explanation of how a specific incident biomechanically caused a specific medical condition.

Appellant did not submit sufficient evidence addressing how the incidents at work on February 19, 2008 caused or contributed to her diagnosed degenerative disc disease or osteitis condition. The evidence of record lacks a proper factual and medical background, explaining how the incident caused these medical conditions. Dr. Revankar reported that osteitis was established by diagnostic studies; but did not explain how the condition was due to a fall at work. She did not demonstrate an accurate understanding of what happened on February 19, 2008 or soundly explain to a reasonable medical certainty, how the incidents caused or aggravated osteitis.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty due to her falls at work on February 19, 2008, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the February 22, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 6, 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