

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES W. HUNTER and DEPARTMENT OF DEFENSE,
DEFENCE LOGISTICS, New Cumberland, Pa.

*Docket No. 97-1156; Submitted on the Record;
Issued January 22, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty causally related to factor of his federal employment.

The Board has duly reviewed the case record in the present appeal and finds that the Office of Workers' Compensation Programs properly determined that appellant failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty, causally related to factors of his federal employment.

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 filed within the applicable time limitations 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.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition, for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the

¹ 5 U.S.C. § 8101.

² *Joe Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition, for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant.

The medical evidence required to establish causal relationship, generally, is rationalized medical opinion 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.⁴

In this case, appellant filed an occupational disease claim on November 22, 1996, alleging that while performing his duties as a supply technician, *i.e.*, lifting moving heavy material standing and walking, he developed low back pain, bulging at the L4-5 area and herniation of the L5-S1 area. The Office denied appellant's claim on January 16, 1997, on the grounds that the evidence of record failed to establish that the claimed medical condition or disability is causally related to factors of his employment.

The medical evidence in support of appellant's claim consists of a November 19, 1996 emergency care and treatment record noting appellant had back problems since original injury of August 17, 1995; an attending physician's report dated November 20, 1994, by Dr. Herman Lawson; and a September 26, 1996 report, of a magnetic resonance imaging (MRI) of the lumbosacral spine by Dr. Robert Green, an osteopath.

The November 19, 1996 emergency care and treatment record failed to provide a diagnosis or to causally relate any condition to factors of appellant's employment. Therefore, the emergency care and treatment record is insufficient to establish appellant's claim.

On the attending physician's report dated November 20, 1994, Dr. Lawson diagnosed moderate lumbosacral strain but failed to causally relate the diagnosed condition to factors of appellant's employment. Dr. Lawson did not offer an opinion regarding any condition being caused or aggravated by appellant's factors of employment. The attending physician's report is insufficient to establish appellant's claim.

In the September 26, 1996 report of an MRI scan of the lumbosacral spine, Dr. Green, an osteopath, interpreted the scan as revealing a herniation centrally and to the left side at L5-S1. However, the report failed to causally relate the diagnosed condition to appellant's factors of employment. The September 26, 1996 report is insufficient to establish appellant's claim.

In summary, there is no dispute that appellant has back problems and that he identified the factors of his employment to which he attributed his condition. However, the medical

⁴ *Id.*

evidence submitted is insufficient to establish a causal relationship between appellant's claimed condition and the identified factors of his employment. By letter dated December 13, 1996, the Office advised appellant in detail of the specific medical evidence needed to establish his claim, but such evidence was not provided. The Board finds that appellant has failed to meet his burden of proof.

The decision of the Office of Workers' Compensation Programs dated January 16, 1997 is affirmed.⁵

Dated, Washington, D.C.
January 22, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member

⁵ The Board notes that appellant filed his application for review by the Board on February 6, 1997, but he also filed, on that same date, a request for reconsideration with the Office's Branch of Hearings and Review. The Board and the Office may not have concurrent jurisdiction over the same issue and, therefore, any decision of the Office on the request for reconsideration would be null and void; *see Douglas E. Billings*, 41 ECAB 880 (1990).