

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BARBARA THOMAS-BAGROWSKI and DEPARTMENT OF
TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION,
Des Plaines, IL

*Docket No. 00-2238; Submitted on the Record;
Issued July 11, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant met her burden of proof in establishing that she sustained a lower back injury causally related to her federal employment.

On January 4, 1999 appellant, then a 49-year-old labor relations consultant, filed a notice of traumatic injury, claiming that between October and November 1998 she was involved in physical activities of "transporting materials, supplies and packages to various rooms, hanging banners, occasional moving furniture," which she stated resulted in her back and right shoulder injuries.¹

Appellant submitted a December 13, 1998 treatment note from Dr. Jeffrey A. Katt, a Board-certified internist, diagnosing her with "low back pain." Dr. Katt stated: "mid lower back pain 2 w[ee]ks difficulty turning side to side, difficulty walking, states she had back injury at work 1996 to 1995." Appellant submitted an additional note from the Milwaukee Medical Clinic dated March 4, 1999,² diagnosing her with "biceps tenderitis (sic)" and recommending that she perform only sedentary work. Appellant also submitted two treatment notes, one dated December 23, 1998, indicating "[appellant] is on med[ication]s for sciatica, groggy from medication, can [no]t drive on med[ication]s" and the other dated January 7, 1999, indicating that appellant may return to light-duty work on January 13, 1999. The other materials submitted by appellant pertained to alleged abusive behavior by her supervisor and agency personnel.

¹ The Board notes that the record contains evidence of other claims filed by appellant dated March 5 and 8, 1999, but the only issue in this appeal is appellant's lower back condition, which allegedly occurred between October and December 1998.

² Signature of physician is illegible.

By letter dated March 29, 1999, the Office of Workers' Compensation Programs requested that appellant submit additional factual and medical information.³

Appellant submitted additional correspondence regarding the alleged harassment by her supervisor and an Equal Employment Opportunity complaint but did not submit any information regarding her lower back condition.

By decision dated May 13, 1999, the Office denied appellant's claim, as the evidence of record was insufficient to establish fact of injury.

By letter dated June 3, 1999, appellant requested an oral hearing, which was held on December 1, 1999.

Appellant submitted a personal statement dated May 3, 1999, describing employment factors that allegedly caused her condition, as well as reports from Dr. Luke F. Rehrauer, a Board-certified internist, dated November 2 and December 2, 1999. In the November 1999 report, Dr. Rehrauer discussed appellant's difficulty with her 200-mile commute to work and stated:

"As you [appellant] know, you suffer from long-standing lower back pain which is a combination of degenerative joint disease as well as some work injuries. The x-rays in the past have shown degenerative joint disease in the back, although other medical problems are also contributing to your underlying problems with driving back and forth to work.

"In summary, you suffer from chronic lower back pain which is muscular and arthritic in origin, exacerbated by work injuries that began right around 1990 with some heavy lifting, although this alone is not the only limiting factor to your ability to drive back and forth."

Dr. Rehrauer added: "Reviewing your chart, we have also found multiple episodes of work-related injuries. One of the more recent ones was an injury on August 25, 1995 where you had been lifting boxes at work and hurt your back at that time."

In his December 2, 1999 report, Dr. Rehrauer indicated:

"[Appellant] had been injured, as we had discussed on the phone, in 1990, 1995 and also October to December 1998. At the time of the latest incident, [appellant] had been moving boxes as well as chairs and furniture as well as doing a fair amount of packing in an attempt to move the office from one location to another. These were a contributing factor to your back injury at that time."

By decision dated March 20, 2000, the hearing representative affirmed the Office's May 13, 1999 decision.

³ The Office noted that appellant should have filed an occupational claim (Form CA-2) instead of a traumatic claim (Form CA-1) since appellant's condition did not seem to be caused by one single incident.

The Board finds that appellant has not met her burden of proof in establishing that she sustained a lower back injury causally related to her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act⁴ 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.⁵ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place and in the manner alleged.⁷ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁸ An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or a specific condition for which compensation is claimed are causally related to the injury.⁹

Appellant has not identified a traumatic injury occurring in a specific time, place and manner. Traumatic injury is defined by regulation as "a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member of the body affected."¹⁰

In this case, appellant submitted medical evidence to the Office, which diagnosed appellant with a lower back condition, yet did not submit the medical evidence necessary to establish causal relationship.

The medical evidence required to establish a causal relationship 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

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

⁹ As used in the Act, the term "disability" means incapacity because of an injury in employment to earn wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity. *Frazier V. Nichol*, 37 ECAB 528 (1986).

¹⁰ 20 C.F.R. § 10.5(ee) (1999).

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.¹¹

Most of the medical evidence of record does not address causal relationship. Only the November 2 and December 2, 1999 reports from Dr. Rehrauer attempted to address causal relationship between appellant's lower back condition and her employment. In the November 2, 1999 report, he stated that appellant's long-standing lower back pain was partly degenerative in nature and partly caused by work injuries, yet did not explain what kind of work injuries caused, or how they attributed to, appellant's condition. Dr. Rehrauer only indicated that her condition was exacerbated around 1990 due to heavy lifting, but did not identify the time period in issue, October to December 1998.

Dr. Rehrauer did discuss appellant's "latest incident" from October to December 1998, in his December 2, 1999 report and described that appellant had been moving boxes and chairs and packing in order to move the office from one location to another. He indicated that appellant's actions were a contributing factor to her back injury at that time. Dr. Rehrauer did not, however, provide a rationalized medical opinion as to how or why appellant's lower back condition was worsened or exacerbated by her activities at work. As it is evident from the record that appellant has preexisting degenerative lumbar disease, he should have explained the physical findings indicating that appellant's condition was aggravated in late 1998. Dr. Rehrauer should have then specifically discussed which moving activities on a specific day caused the aggravation. Finally, he should have explained the physiologic process, by which appellant's condition was aggravated by the specific activities.

Since the medical evidence submitted does not contain a well-rationalized medical opinion relating appellant's lower back condition to her employment, appellant has not met her burden of proof in establishing her claim.

¹¹ *Delores C. Ellyett, supra* note 6, *Ruthie M. Evans, supra* note 6.

The March 20, 2000 and May 13, 1999 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
July 11, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member