

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EARL D. JOHNSON and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Buffalo, NY

*Docket No. 01-1497; Submitted on the Record;
Issued January 25, 2002*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained back spasms while in the performance of duty.

On January 28, 2001 appellant, then a 43-year-old housekeeping aide, alleged that on January 13, 2001, he sustained upper and lower back spasms when he twisted to make way for a patient while exiting an elevator.

In a medical report dated January 13, 2001, a doctor noted that appellant had low back pain caused when appellant got off an elevator. By checkmark, the doctor noted that appellant had low back pain caused when he got off an elevator and that he was to return to full duty on January 16, 2001.¹

By letter dated February 13, 2001, the Office of Workers' Compensation Programs advised appellant that the information he had submitted was insufficient to establish that he sustained an injury as alleged. The Office requested that appellant describe in detail how the injury occurred, the names of witnesses, the effects of the injury and a diagnosis from a doctor and the doctor's opinion, with medical reasons, as to how the reported work incident caused or aggravated the claimed injury.

In a report dated February 17, 2001, appellant related the incident of January 13, 2001 stating that as he was leaving an elevator, "A guy was pushing another guy in a wheelchair onto the elevator. I attempted to twist out of the way quickly. My back spasms started." He then sought medical treatment from the emergency room and reported the incident to his work leader. Appellant noted that the effects of the incident caused pain while urinating.

¹ The doctor's signature is not legible. The record also includes a report of employee's emergency treatment dated January 13, 2001 that states that appellant is released to return to light duty on January 16, 2001. The signature is not legible.

By decision dated March 15, 2001, the Office denied appellant's claim on the grounds that appellant failed to establish that his condition resulted from factors of federal employment.

The Board finds that appellant has failed to establish that he sustained an injury while in the performance of duty on January 13, 2001.

An employee seeking benefits under the Federal Employees' Compensation Act² 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁵ An injury does not have to be confirmed by eyewitnesses in order to establish the fact that an employee sustained an injury in the performance of duty, as alleged, but the employee's statements must be consistent with the surrounding facts and circumstances and his subsequent course of action. He has the burden of establishing the occurrence of the alleged injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence. An employee has not met this burden when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim. However, his statement alleging that an injury occurred at a given time and manner is of great probative value and will stand unless refuted by substantial evidence.⁶

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁷

² 5 U.S.C. §§ 8101-8193.

³ *Duane B. Harris*, 49 ECAB 170 (1997).

⁴ *Id.*

⁵ *Wendell D. Harrell*, 49 ECAB 289 (1998).

⁶ *Carmen Dickerson*, 36 ECAB 409 (1985).

⁷ *Ronald C. Hand*, 49 ECAB 113 (1997); 20 C.F.R. § 10.115.

Regarding the first component, appellant in this case stated in his claim form that on January 13, 2001, he sustained back spasms when he twisted to make way for a wheelchair patient while he was exiting an elevator. In a medical report dated January 13, 2001, an agency doctor noted that appellant had low back pain caused when he was getting out of an elevator that day.

The Board finds that appellant's statements and the medical report provide a consistent history of injury and that appellant obtained medical treatment the day of the incident. Further the record contains no evidence that the incident did not occur. Thus, the Board finds that the contemporaneous evidence of record supports that the incident occurred at the time, place and in the manner alleged.

Regarding the second component, however, the Board finds that appellant has failed to establish that his back condition was caused by the January 13, 2001 incident.

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to the claimant's diagnosed condition. 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 established factor of employment.⁸

In a January 13, 2001 report, a doctor checked the "yes" box indicating a causal relationship between appellant's condition and his employment. The doctor, however, did not provide any explanation of why he responded yes to the question on causal relationship.

The Board has held that an opinion on causal relationship which consists only of checking "yes" to a form's report question on whether the claimant's disability was related to the history given is of little probative value.⁹ Without any explanation or rationale, such report has little probative value and is insufficient to establish causal relationship.¹⁰ An opinion supporting causal relationship which lacks medical rationale is of little probative value. An award of compensation may not be based on surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between his condition and his employment.

To establish causal relationship, appellant must submit a physician's report in which the physician reviews the factors of employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his opinion. Appellant failed to submit such evidence and therefore failed to discharge his burden of proof.

⁸ *Charles E. Evans*, 48 ECAB 692 (1997).

⁹ *Lee R. Haywood*, 48 ECAB 145 (1996).

¹⁰ *Id.*

The March 15, 2001 decision of the Office of Workers' Compensation Programs' decision is modified to find that the evidence of record is sufficient to establish that the incident occurred at the time, place and in the manner alleged on January 13, 2001 and is affirmed as modified.

Dated, Washington, DC
January 25, 2002

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member