

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DOUGLAS J. LAMORA and DEPARTMENT OF THE NAVY,  
CAMP LEJEUNE MARINE CORPS BASE, Camp Lejeune, NC

*Docket No. 02-309; Submitted on the Record;  
Issued February 12, 2003*

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DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,  
DAVID S. GERSON

The issue is whether appellant has established that he sustained a medical condition in the performance of duty.

On January 17, 2001 appellant, then a 59-year-old electrical worker, filed a claim alleging that he sustained an injury to his back while off loading old dishwashers from a truck. He advised that the injury occurred on December 21, 2000. Appellant first sought care at the emergency room for his back condition on January 18, 2001.

The record reflects that the Office of Workers' Compensation Programs administratively approved and closed appellant's case with a \$1,500.00 maximum bill payment limit. Due to the amount of medical bills received, the status of appellant's case was changed to that of being under development.

The evidence received consisted of magnetic resonance imagining (MRI) scans of appellant's lumbar spine, a fluoroscopy of the mid-lumbar spine and medical reports from various treating physicians.

In a January 11, 2001 medical report, Dr. George V. Hoffman, a neurologist, advised that appellant has had low back pain for a while, which got worse three weeks ago when he was playing golf. After setting forth his examination findings and the results of an MRI scan, Dr. Hoffman provided the impression of spinal stenosis at L4-5 and L5-S1 with spondylosis. He opined that appellant might have a foraminal disc at L4-5, but the MRI scan needed to be repeated with sedation. In a report dated February 8, 2001, Dr. Hoffman advised that appellant stated that he misunderstood him, that his back pain started at work on December 21, 2001 when he lifted an old dishwasher on a truck, not when he was playing golf. He reviewed the lumbar MRI and advised that appellant had lumbar stenosis, lumbar spondylolisthesis and degenerative disc disease. A surgical option was discussed with the recommendation that a radiologist be consulted. In a March 5, 2001 report, Dr. Hoffman advised that, after consultation with a

radiologist, appellant has a foraminal disc at L4-5 on the right side. In a March 15, 2001 report, he advised that appellant has degenerative disc disease at L4-5 and L5-S1, a foraminal herniated disc on the right and a small herniated disc at L5-S1. Appellant also has pain in his back and right leg whenever he stands still. Dr. Hoffman advised about appellant's status and noted that appellant states that doing his job causes him to have pain.

In reports dated March 14, 2001 and an April 10, 2001, Dr. Edgardo H. Bianchi, an internist specializing in cardiovascular diseases, advised that appellant was totally and permanently disabled as a result of multiple medical problems. Although Dr. Bianchi mentioned appellant's spinal stenosis as being a factor which rendered appellant totally disabled, there was no discussion on causal relationship.

In a March 28, 2001 medical report, Dr. Scott R. Johnston, a Board-certified anesthesiologist, noted the history of injury and provided examination findings. An impression of lumbar radiculopathy with degenerative disease along with chronic back pain with probable lumbar spondylosis was provided. In a May 10, 2001 report, Dr. Johnston noted appellant's progress. There was no discussion regarding the causal relationship.

In a March 27, 2001 duty status report, an employing establishment occupational health physician, Dr. Gary Whitlock III, Board-certified in emergency medicine, advised that appellant was totally and permanently disabled secondary to spinal stenosis and, with a checkmark, opined that appellant's condition was causally related to the history of injury.

By decision dated October 17, 2001, the Office denied appellant's claim. The Office found that the evidence failed to establish that appellant's back condition was causally related to factors of appellant's employment.

The Board finds that appellant has failed to meet his burden of proof in establishing that he sustained a medical condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of proof to establish the essential elements of his claim.<sup>2</sup> 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.<sup>3</sup>

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

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> See *Margaret A. Donnelley*, 15 ECAB 40 (1963).

<sup>3</sup> See generally *John J. Carlone*, 41 ECAB 354 (1989); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(q) and (ee) ("occupational disease or illness" and "traumatic injury" defined); see *Margaret A. Donnelley*, *supra* note 2.

actually experienced the employment incident, which is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally can be established only by rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>4</sup>

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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>5</sup>

In this case, appellant has established an employment factor -- the lifting and off loading of equipment, in this case dishwashers. However, he has failed to meet his burden of proof for the reason that he has not submitted medical evidence establishing that the employment factor of lifting heavy equipment (dishwashers) resulted in or aggravated his back condition.

Although appellant submitted medical reports from his treating physicians, Drs. Huffman, Branchi and Johnston, who supported appellant's current back condition with objective evidence, none of the physicians submitted a medical opinion regarding the cause of appellant's problems and whether it was related to his employment. The reports of Drs. Huffman, Branchi and Johnston contained no opinion regarding causal relationship and, thus, failed to establish that appellant's condition was causally related to his employment. It is noted that the March 27, 2001 duty status report from occupational health stated that appellant was totally and permanently disabled secondary to spinal stenosis and advised with a checkmark that appellant's condition was causally related to the history of injury. However, the Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.<sup>6</sup>

As appellant presented no rationalized medical opinions to establish causal relationship between appellant's back conditions and his employment, appellant has failed to submit the necessary medical evidence to meet his burden of proof and the Office properly denied his claim.

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<sup>4</sup> *Bonnie Goodman*, 50 ECAB 139 (1998).

<sup>5</sup> *Jean Culliton*, 47 ECAB 728 (1996).

<sup>6</sup> *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

The decision of the Office of Workers' Compensation Programs dated October 17, 2001 is affirmed.<sup>7</sup>

Dated, Washington, DC  
February 12, 2003

Alec J. Koromilas  
Chairman

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

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<sup>7</sup> With his appeal appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a).