

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of REGINALD D. RANDLE and U.S. POSTAL SERVICE,
POST OFFICE, Little Rock, AR

*Docket No. 03-602; Submitted on the Record;
Issued July 14, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant sustained a lower back injury in the performance of duty.

On January 30, 2001 appellant, a 32-year-old mail processor, alleged that he sustained an injury to his back in March 1998 due to heavy lifting of mail.¹

In a report dated November 8, 2000, Dr. Thomas P. Rooney, a Board-certified orthopedic surgeon, stated that appellant had a lumbar sprain resulting from the March 1998 work incident which should have healed within six to eight weeks from the time of injury. Dr. Rooney noted that appellant had degenerative disc disease at L3-4, L4-5 and S1, but stated that there was no objective evidence he had a permanent aggravation on the underlying problem of degenerative disc disease. He opined that appellant could resume normal activities, that his condition was not worsened as a result of employment factors and advised that he had no disability resulting from the March 1998 work incident.

In a report dated January 15, 2001, Dr. Phillip A. Tracy, appellant's treating physician, stated that appellant had a history of chronic recurrent exacerbations of lumbar pain, some mild, some severe, which occurred approximately three to four times per year. These episodes of pain resulted in periods of total incapacitation which made it impossible for him to work or even perform activities of daily living. Dr. Tracy opined that appellant had progressive findings and symptoms that were incapacitating him on an increasingly more frequent basis. He diagnosed bulging herniated nucleus pulposus at L4-5, L5-S1, primarily on the right side, with chronic recurrent and acute lumbar sprain associated with activities at work and of daily living; Dr. Tracy traced these problems to appellant's initial low back injury sustained while he was with the air force. He asserted that there was no doubt that the job description appellant gave was an

¹ Appellant previously filed a traumatic injury claim for a lower back injury on March 2, 1998, which the Office of Workers' Compensation Programs accepted on June 30, 1998 for lumbar strain. On October 5, 2000 appellant filed a claim for recurrence of disability beginning August 1, 2000. The Office denied the claim by decision dated March 9, 2001, finding that he had no residuals from his accepted 1998 lumbar strain injury.

aggravating factor of his chronic lumbar disc syndrome, resulting in acute and recurrent lumbar sprains. Dr. Tracy concluded that appellant's episodes of incapacitation were of a chronic and ongoing nature that were most definitely exacerbated and caused by his employment duties.

In a report dated April 24, 2001, Dr. Tracy stated:

“[Appellant] has been followed for acute and chronic lumbar strain and lumbar disc injury that is related to an old injury when he was in the service. He continues to reexacerbate his lumbar pain on a daily basis at work, secondary to lifting, both heavy and light. Specific maneuvers of twisting, bending and stretching also exacerbate this problem. Specifically, I feel that his exposure and level of contribution to his ongoing injury is 100 percent from his job requirements.”

By decision dated June 13, 2001, the Office denied appellant's claim on the grounds that the claimed medical condition was not causally related to factors or incidents of employment.

By letter dated July 11, 2001, appellant's attorney requested a hearing, which was held on July 25, 2002.

In an April 23, 2002 report, Dr. Tracy stated that appellant suffered from recurrent lumbar sprains and strains secondary to a 1988 military injury. He opined that appellant's repeated problems were aggravated by lifting weights greater than 50 pounds, standing on concrete floors, bending and stooping. These activities caused increased symptomatology of his degenerative disc disease, which worsened the symptoms over time. Dr. Tracy advised that the progression of appellant's degenerative disc disease was manifested by frequent problems of back pain and incapacitation.

In a May 31, 2002 report, Dr. Richard E. McCarthy, a Board-certified orthopedic surgeon, stated findings on examination and noted the deterioration of appellant's lower back condition, but did not render an opinion as to whether his condition was causally related to employment factors.

By decision dated October 9, 2002, an Office hearing representative affirmed the Office's June 13, 2001 decision.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a lower back condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing that 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

² 5 U.S.C. §§ 8101-8193.

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

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 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 the claimant. The medical evidence required to establish causal relationship is usually rationalized medical 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.⁵

An award of compensation may not be based on surmise, conjecture or speculation. In this regard, the Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁶ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁷ Causal relationship must be established by rationalized medical opinion evidence.

The reports of Drs. Rooney, Tracy and McCarthy do not constitute sufficient medical evidence to establish a causal connection between appellant's employment and his claimed lower back condition. Causal relationship must be established by rationalized medical opinion evidence; however, these reports did not contain a probative, rationalized medical opinion indicating that appellant's claimed lower back condition was causally related to factors of his federal employment. Dr. Tracy's opinion on causal relationship is of limited probative value in that he did not provide adequate medical rationale in support of his conclusions.⁸ Dr. Tracy opined that appellant's chronic, recurrent exacerbations of debilitating lumbar pain were

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Id.*

⁶ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁷ *Id.*

⁸ *William C. Thomas*, 45 ECAB 591 (1994).

progressive and were incapacitating him on an increasingly more frequent basis. He felt that, given the job description appellant provided, his employment was an aggravating factor of the chronic lumbar disc syndrome which originated with the initial low back injury he sustained while serving in with the air force. Dr. Tracy, however, did not explain the process through which appellant's employment activities could have been competent to have caused or aggravated his claimed lower back condition. His opinion is of limited probative value for the further reason that it is generalized in nature and equivocal in that he only noted summarily that appellant's condition was causally related to his employment. Dr. Rooney opined that appellant's 1998 lumbar sprain injury should have healed within six to eight weeks from the time of injury. He noted that appellant had degenerative disc disease at L3-4, L4-5 and S-1, but stated that there was no objective evidence he had a permanent aggravation on the underlying problem of degenerative disc disease. He opined that appellant could resume normal activities, that his condition was not worsened as a result of employment factors, and advised that he had no disability resulting from the March 1998 work incident. Dr. McCarthy merely stated findings on examination and did not render an opinion as to whether the claimed lower back condition was causally related to factors or incidents of employment. Appellant, therefore, has failed to submit any rationalized, probative medical evidence establishing that his lower back condition is causally related to employment factors.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence. The Office advised appellant of the type of evidence required to establish his claim; however, appellant failed to submit such evidence. Accordingly, as appellant failed to meet his burden to submit probative, rationalized medical evidence establishing that his claimed lower back condition was caused by factors or incidents of his employment, the Office properly denied appellant's claim for compensation.

The decision of the Office of Workers' Compensation Programs dated October 9, 2002 is hereby affirmed.

Dated, Washington, DC
July 14, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member