

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROSARIO LANIER and DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE, Laredo, TX

*Docket No. 03-1930; Submitted on the Record;
Issued November 5, 2003*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant was disabled on and after October 28, 2002 causally related to her August 20, 2002 employment injury.

On August 30, 2002 appellant, then a 49-year-old seized property specialist, filed a claim for a traumatic injury alleging that on August 20, 2002 she injured her lower back when she pushed a forklift. The Office of Workers' Compensation Programs accepted appellant's claim for a lumbar sprain/strain. On October 14, 2002, appellant filed a claim for disability on and after October 28, 2002.

By decision dated October 31, 2002, the Office denied appellant's claim for disability on and after October 28, 2002 on the grounds that the evidence of record did not establish that her disability was causally related to her August 20, 2002 employment injury. In an undated letter received by the Office on November 25, 2002, appellant requested reconsideration and submitted additional evidence. By decision dated January 30, 2003 the Office denied appellant's claim for compensation on and after October 28, 2002 on the grounds that the evidence of record failed to establish that she had any continuing disability.¹

The Board finds that appellant failed to establish that her disability on and after October 28, 2002 was causally related to her August 28, 2002 employment injury.

Whether a particular injury causes an employee disability for employment and the duration of that disability are medical issues which must be resolved by competent medical evidence.² Such medical evidence must include findings on examination and the physician's

¹ The record contains evidence submitted subsequent to the Office decision of January 30, 2003. However, the jurisdiction of the Board is limited to the evidence that was before the Office at the time it issued its final decision; *see* 20 C.F.R. § 501.2(c).

² *Cloteal Thomas*, 43 ECAB 1093 (1992).

opinion, supported by medical rationale, showing how the injury caused the employee disability for his or her particular work.³ While the Office accepted that appellant sustained an employment injury, she still has the burden to establish that her accepted condition resulted in disability for work for the specific periods for which she is claiming compensation.⁴

In reports dated September 10 and October 10, 2002, Dr. Arturo Garza-Gongora, an attending physician Board-certified in emergency medicine, provided findings on examination and diagnosed an acute lumbar strain sustained on August 20, 2002 when appellant pushed a forklift. He indicated that appellant was advised to stay off work for one week. In a report dated November 14, 2002, Dr. Garza-Gongora stated that he instructed appellant to obtain an x-ray of her lumbar spine and then schedule another appointment with him.

A report of an MRI (magnetic resonance imaging) scan performed on January 6, 2003 was essentially normal. In a form report dated January 10, 2003, Dr. Garza-Gongora indicated that appellant was unable to work. However, he did not provide any findings on examination or any medical rationale explaining why appellant was disabled or the period of any disability. Such rationale is particularly critical in light of the fact that Dr. Garza-Gongora stated in his September 10 and October 10, 2002 reports that appellant should be off work for only one week and the January 6, 2003 MRI report which indicated essentially normal findings.⁵

As appellant failed to submit rationalized medical evidence explaining how her disability on and after October 28, 2002 was causally related to her August 20, 2002 employment-related lumbar sprain, she did not meet her burden of proof. The Office properly denied her claim.

³ *Dean E. Pierce*, 40 ECAB 1249 (1989).

⁴ *Dorothy J. Bell*, 47 ECAB 624 (1996).

⁵ In form reports dated in October and November 2002, Dr. Garza-Gongora recommended work restrictions. However, he did not clearly indicate that these restrictions were necessitated by appellant's August 20, 2002 work injury and these reports are deficient for the same reasons as his January 10, 2003 report.

The decisions of the Office of Workers' Compensation Programs dated January 30, 2003 and October 31, 2002 are affirmed.

Dated, Washington, DC
November 5, 2003

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member