

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LOIS BUTLER and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, DATA CENTER, Detroit, MI

*Docket No. 03-1799; Submitted on the Record;
Issued October 22, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that her diagnosed back conditions are causally related to her federal employment.

Appellant, a 66-year-old tax examiner, filed a notice of occupational disease on March 3, 2003 alleging that she developed a back injury due to picking up boxes weighing 20 to 25 pounds, bending and standing in the performance of duty. In a letter dated April 23, 2003, the Office of Workers' Compensation Programs requested additional factual and medical evidence. Appellant submitted additional medical evidence and, by decision dated May 29, 2003, the Office denied appellant's claim finding that she failed to provide sufficient medical evidence to establish a causal relationship between her diagnosed conditions and her alleged employment duties.

The Board finds that appellant has failed to meet her burden of proof in establishing that her diagnosed back conditions are causally related to her federal employment.

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 evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between

the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.¹

In this case, appellant submitted medical reports dated from November 18, 2002 to May 10, 2003 from Dr. Joseph C. Honet, a physician Board-certified physical medicine and rehabilitation, which diagnosed sacroiliac strain, S1 radiculopathy and spinal stenosis. On her claim form appellant attributed her condition to lifting boxes weighing between 20 and 25 pounds, bending and standing in the performance of her federal job duties. Appellant also noted that in 1990, she was diagnosed with a herniated disc.

The Board finds that appellant has not provided sufficient medical evidence establishing that the diagnosed condition is causally related to the alleged employment factors. The medical evidence of record consists of reports from Dr. Honet. While Dr. Honet provided findings on physical examination and diagnostic testing and diagnoses of appellant's back condition, he did not address appellant's employment duties and did not provide any opinion on the causal relationship between these duties and the diagnosed back conditions. Dr. Honet stated that appellant was a full-time tax examiner in his November 18, 2002 report and that appellant had experienced back pain for many years. He noted that walking, standing and bending made appellant's pain worse and that she had lost two weeks from work. However, Dr. Honet did not address whether he was aware that walking, standing and bending were the employment duties implicated by appellant as causing her back condition and did not provide any medical opinion explaining how or why walking, standing and bending would cause or contribute to her diagnosed conditions of sacroiliac strain and radicular symptoms.

In a form report dated May 10, 2003, Dr. Honet stated that appellant had a history of herniated disc in 1990, but failed to respond to the question on the form report regarding whether appellant's condition was related to her employment. On February 18, 2003 Dr. Honet diagnosed L5 or S1 radiculopathy on the right secondary to spinal stenosis, which was secondary to spondylolisthesis. However, he did not provide any opinion regarding the origins or contributing factors of appellant's spondylolisthesis and did not opine that this condition was related to appellant's employment duties.

The Office informed appellant of the defects in the evidence on April 23, 2003 and allowed her 30 days to submit address evidence. As appellant has failed to present adequate medical evidence identifying her employment duties and explaining how those duties caused or contributed to her diagnosed conditions, she as failed to meet her burden of proof. The Office properly denied her claim.

¹ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

The decision of the Office of Workers' Compensation Programs dated May 29, 2003 is hereby affirmed.

Dated, Washington, DC
October 22, 2003

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member