

In a report dated August 22, 2001, Dr. William C. Van Ness, an attending physician Board-certified in physical medicine and rehabilitation, stated that appellant related that his back pain began approximately five days earlier when he was bending and twisting to pick up something off the ground while at home. He found that appellant had low back pain with possible left S1 radiculopathy, left S1 joint pain and dysfunction and right rotator cuff tendinitis or impingement syndrome. Dr. Van Ness recommended x-rays of the lumbar spine and placed appellant on restrictions.

Appellant submitted follow-up reports from Dr. Van Ness and unidentified associates dated August 31 and September 7, 14 and 21, 2001. On October 3, 2001 Dr. Van Ness released him to regular duty. On March 20, 2002 appellant filed a claim for compensation from August 19 to November 5, 2001 with regard to another claim. The employing establishment stated that he was on intermittent sick leave for the periods claimed.¹

By letter dated June 14, 2002, the Office advised appellant that the information submitted in his claim was not sufficient to determine whether he was eligible for benefits and advised him regarding the additional medical and factual evidence needed to support his claim. He was directed to provide a comprehensive medical report including a diagnosis and a description of his symptoms, results from any examinations and tests, treatment provided and his physician's opinion, with a medical explanation for such opinion, as to how the reported work incident of August 19, 2001 caused or aggravated the claimed injury.

In a report dated January 2, 2002, Dr. Van Ness stated that appellant sustained a recent work-related injury when he was hit in the back of the left side of the head. He noted cephalgia and cervical strain secondary to the recent injury and an exacerbation of low back pain with a probable lumbar herniated disc. On January 18, 2002 Dr. Van Ness stated that appellant had cervical strain and resolved cephalgia and low back pain. He released him to return to full duty.

On November 12, 2002 the Office denied appellant's claim on the grounds that the evidence of record failed to establish that the medical condition was caused by the August 19, 2001 incident. On December 10, 2002 he requested an oral hearing. A hearing was held on October 29, 2003. By decision dated January 12, 2004, the hearing representative affirmed the Office's November 12, 2002 decision denying benefits on the grounds that the evidence failed to establish a causal relationship between the work incident and the medical condition.²

LEGAL PRECEDENT

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

¹ The matter involving the other claim is not presently before the Board.

² Appellant testified that on March 16, 2002 he received a notice of removal from the employing establishment and that at the time of the hearing he was not employed.

actually experienced the employment incident which is alleged to have occurred.³ 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.⁴ 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.⁵

ANALYSIS

The Board notes that the Office accepted that the accident occurred on August 19, 2002 as alleged. The Board finds, however, that the medical evidence is not sufficient to establish that appellant's low back pain was causally related to his employment duties.

In this case, appellant stated at his oral hearing that he injured his back because he was required to lift and sort mail while using only his left arm as a result of work restrictions against using his right arm. The record includes an exhibit from a coworker filed in connection with an arbitration procedure that the hearing representative accepted as supporting claimant's testimony that the August 19, 2001 work-related incident occurred. Appellant then stated that he believed he told Dr. Van Ness that his injury happened at work on August 19, 2001 when he bent down to pick up a package. Although the work-related incident of August 19, 2001 occurred as alleged, appellant has failed to establish an injury causally related to the incident.

Appellant submitted reports from Dr. Van Ness, his treating physician, dated August 22, 31, September 7, 14, 21, 2001, who noted that appellant was treated for low back pain caused when he bent down and twisted reaching for an object while at home. He released appellant to return to light duty that day. Dr. Van Ness, however, did not provide an opinion establishing a causal relationship between appellant's condition and any employment incident of August 19, 2001. None of his follow-up reports clarified that the initial August 19, 2001 injury was caused by his employment. Although the Office advised appellant regarding the kind of evidence he needed to support his claim, the record reveals that he submitted reports that addressed a new work-related incident involving a head injury. Medical evidence which does

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Betty J. Smith*, 54 ECAB ____ (Docket No. 02-149, issued October 29, 2002).

⁵ *Joan F. Burke*, 54 ECAB ____ (Docket No. 01-39, issued February 14, 2003).

not offer any opinion regarding the cause of an employee's condition is of limited probative value.⁶ Other reports from Dr. Van Ness and his associates dated August 31, September 7, 14 and 21, 2001 and October 3, 2001 and January 2 and 18, 2002 did not address the August 19, 2001 work incident and offered no opinion regarding a work-related causation.⁷

The Board finds that the reports of Dr. Van Ness are not sufficient to establish appellant's low back pain as causally related to the accepted employment incident. He did not provide an explanation of how the August 19, 2001 work-related incident would cause or contribute to appellant's low back condition. The Board, therefore, finds Dr. Van Ness' reports of diminished probative value and not sufficient to meet appellant's burden of proof.

CONCLUSION

The Board finds that, as none of the medical reports provide a rationalized opinion that appellant's low back pain is causally related to the accepted employment incident, he failed to meet his burden of proof.

ORDER

IT IS HEREBY ORDERED THAT the January 12, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 19, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁶ *Michael E. Smith*, 50 ECAB 313 (1999).

⁷ *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).