

strains. Appellant stopped work on February 26, 2003 and returned to her regular work shortly thereafter.¹

Appellant received treatment for her condition from Dr. Rafik D. Muawwad, an attending Board-certified orthopedic surgeon. In a report dated April 17, 2003, Dr. Muawwad stated that appellant's symptoms were improving, but she complained of cervical, lumbar, right hip and right groin pain. He encouraged appellant to continue with physical therapy and home exercises.² In a report dated June 19, 2003, Dr. Muawwad indicated that appellant's condition was improving and that she exhibited good range of lumbar and cervical motion. He noted that she continued to have some discomfort but did not have severe pain.

Appellant stopped work on August 25, 2003 and claimed that she sustained a recurrence of disability due to the February 19, 2003 employment injury. She submitted a September 25, 2003 report in which Dr. Muawwad noted that she reported no increase in her symptoms but still experienced cervical and lumbar pain with no radicular symptoms. He indicated that electromyogram (EMG) testing showed a suggestion of bilateral spinal radiculopathy and spinal stenosis and that magnetic resonance imaging (MRI) scan testing showed no acute abnormalities. Dr. Muawwad stated, "In general, the patient's symptoms are not severe enough to warrant additional evaluation or treatment."

Appellant also submitted copies of the EMG and MRI scan testing referenced by Dr. Muawwad. The findings of EMG testing from August 28, 2003 revealed a bilateral radiculopathy of the lumbar paraspinals and lower extremities probably on the basis of spinal stenosis or herniated disc. The findings of MRI scan testing of the lumbar spine from August 27, 2003 showed little, if any, change from the MRI scan testing obtained in November 2002. Appellant had disc bulges and facet disease at L3-4 and L4-5 without significant canal stenosis or foraminal encroachment.

In an April 8, 2004 report, Dr. Muawwad indicated that he had not treated appellant since September 2003. Appellant reported that her symptoms had deteriorated to include pain radiating into her lower extremities and the inability to stand erect. Dr. Muawwad attempted to relieve appellant's symptoms with a paravertebral block procedure. In a report dated May 6, 2004, he indicated that appellant's symptoms were not improving.

By letter dated June 8, 2004, the Office advised appellant that she had not submitted sufficient medical evidence to establish that she sustained a recurrence of employment-related disability. Appellant did not submit any evidence within the 30-day period allotted by the Office's letter.

By decision dated July 15, 2004, the Office denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish a recurrence of disability on or after August 25, 2003 due to the February 19, 2003 employment injury.

¹ After her injury, appellant was provided with a new chair that gave her additional lumbar support.

² The record contains the findings of x-ray testing from March 6, 2003 which revealed no acute abnormalities of the lumbar spine, pelvis or right hip. The findings showed a possible old healed fracture of the right ischial area.

LEGAL PRECEDENT

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.³ This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.⁴ Where no such rationale is present, medical evidence is of diminished probative value.⁵

ANALYSIS

The Board finds that appellant did not submit sufficient medical evidence to establish a recurrence of disability on or after August 25, 2003 due to her February 19, 2003 employment injury.

In support of her claim, appellant submitted a September 25, 2003 report in which Dr. Muawwad, an attending Board-certified orthopedic surgeon, noted that she reported no increase in her symptoms but still cervical and lumbar pain with no radicular symptoms. He indicated that EMG testing showed a suggestion of bilateral spinal radiculopathy and spinal stenosis and that MRI scan testing showed no acute significant abnormalities.⁶ This report, however, is of limited probative value on the relevant issue of the present case in that it does not contain an opinion on causal relationship.⁷ Dr. Muawwad did not provide an opinion that appellant's symptoms were due to the February 19, 2003 employment injury -- lumbar, cervical and pelvis strains. Moreover, he did not indicate that appellant's symptoms or any diagnosed condition caused disability from work. He noted that appellant's "symptoms are not severe enough to warrant additional evaluation or treatment." Appellant did not receive additional treatment from Dr. Muawwad until April 2004. In reports dated April 8 and May 6, 2004, Dr. Muawwad stated that appellant reported that her back and lower extremity symptoms had worsened. However, he did not indicate that these symptoms or any diagnosed condition were related to the February 19, 2003 employment injury.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment

³ *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

⁴ *Mary S. Brock*, 40 ECAB 461, 471-72 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

⁵ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

⁶ The record contains copies of the diagnostic testing referenced by Dr. Muawwad but the reports do not contain any indication regarding the cause of the findings.

⁷ See *Charles H. Tomaszewski*, *supra* note 3 at 467-68 (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

nor his belief that her condition was aggravated by her employment is sufficient to establish causal relationship.⁸ Appellant failed to submit rationalized medical evidence establishing that her claimed recurrence of disability is causally related to the accepted employment injury and, therefore, the Office properly denied her claim for compensation.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained a recurrence of disability on or after August 25, 2003 due to her February 19, 2003 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs decision dated July 15, 2004 is affirmed.

Issued: December 28, 2004
Washington, DC

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁸ See *Walter D. Morehead*, 31 ECAB 188, 194-95 (1986).