

**United States Department of Labor
Employees' Compensation Appeals Board**

JUDY A. STUMPNER, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Shawnee, KS, Employer**

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**Docket No. 04-207
Issued: January 16, 2004**

Appearances:
Judy A. Stumpner, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On October 30, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs merit decisions dated March 25, May 22 and July 24, 2003, denying her claim for a back injury on February 3, 2003. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained an injury on February 3, 2003 causally related to factors of her employment.

FACTUAL HISTORY

On February 3, 2003 appellant, then a 39-year-old clerk, filed a traumatic injury claim alleging that she strained her lower back on that date when she lifted a tub of mail flats. By letter dated February 20, 2003, the Office advised appellant that she needed to provide additional evidence in support of her claim, including a medical report explaining how her back condition was causally related to her employment.

In a February 21, 2003 disability certificate, Dr. Ronda L. Warren, appellant's attending Board-certified family practitioner, stated that she had an acute lumbar strain, but could return to work that evening with no lifting or pulling over 10 pounds. A March 3, 2003 report of a magnetic resonance imaging (MRI) scan indicated that appellant had mild degenerative disc disease at L4-5 and L5-S1 and diffuse disc bulging at L4-5 and L5-S1.

By decision dated March 25, 2003, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that her back strain was caused by the work incident on February 3, 2003.

On May 5, 2003 appellant requested reconsideration and submitted additional evidence. In a report dated March 27, 2003, Dr. C. Erik Nye, a Board-certified orthopedic surgeon, stated that he examined appellant on March 14, 2003 for a lumbosacral strain with a right-sided annular tear at L4-5 and diffuse disc bulging and mild degenerative disc disease at L4-5 and L5-S1. He noted that appellant told him that her injury occurred at work on February 3, 2003 and she sought treatment at the emergency room. Dr. Nye noted that appellant denied having any prior back problems. He stated, "It is my opinion that, by history, the injury occurred at work, no prior injury, no prior back problems. Appellant has significant findings on an MRI [scan]."

By decision dated May 22, 2003, the Office denied modification of its March 25, 2003 decision.

By letter dated April 30, 2003, appellant requested reconsideration and submitted additional evidence. In notes dated February 14, 2003, Dr. Warren stated that appellant had been in pain for one and one-half weeks after bending. She diagnosed a low back strain, but did not indicate the exact date of injury or how the injury was related to appellant's job. In a disability certificate dated April 25, 2003, Dr. Warren stated that she saw appellant on February 14, 2003 for an acute right lumbar back strain.

By decision dated July 24, 2003, the Office denied modification of its May 22, 2003 decision.

LEGAL PRECEDENT

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.¹ She has the burden of establishing by the weight of the reliable, probative and substantial evidence that she sustained an injury in the performance of duty and that her disability was caused or aggravated by her employment.² As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.³ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship

¹ *William Nimitz, Jr.*, 30 ECAB 567 (1979).

² *Daniel R. Hickman*, 34 ECAB 1220 (1983).

³ *Mary J. Briggs*, 37 ECAB 578 (1986); *Joseph T. Gulla*, 36 ECAB 516 (1985).

between the condition and the employment.⁴ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.⁵

ANALYSIS

In notes dated February 14, 2003, Dr. Warren stated that appellant had been in pain for one and one-half weeks after bending. She diagnosed a low back strain, but did not indicate the exact date of injury or explain how the injury was related to appellant's job. In a February 21, 2003 disability certificate, Dr. Warren stated that appellant had an acute lumbar strain, but could return to work that evening with no lifting or pulling over 10 pounds. In a disability certificate dated April 25, 2003, Dr. Warren stated that she saw appellant on February 14, 2003 for an acute right lumbar back strain. However, in her notes she did not provide a specific date of injury or an opinion, supported with medical rationale, as to how appellant's back condition was causally related to the work incident on February 3, 2003. Therefore, Dr. Warren's notes are not sufficient to discharge appellant's burden of proof to establish that she sustained a work-related back injury on February 3, 2003.

A March 3, 2003 MRI scan indicated that appellant had mild degenerative disc disease at L4-5 and L5-S1 and diffuse disc bulging at L4-5 and L5-S1. However, there was no indication in this report that these conditions were causally related to appellant's employment. Therefore, this report is not sufficient to establish that appellant sustained a work-related injury on February 3, 2003.

In a report dated March 27, 2003, Dr. Nye stated that he examined appellant on March 14, 2003 for a lumbosacral strain with a right-sided annular tear at L4-5 and diffuse disc bulging and mild degenerative disc disease at L4-5 and L5-S1. He noted that she told him that her injury occurred at work on February 3, 2003 and she sought treatment at the emergency room. Dr. Nye noted that appellant denied having any prior back problems. He stated, "It is my opinion that by history the injury occurred at work, no prior injury, no prior back problems. Appellant has significant findings on an MRI was was [scan]." However, Dr. Nye's opinion on causal relationship was based on appellant's statement that her back injury occurred at work. As noted above, neither the fact that the condition became apparent during a period of employment, nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship. Dr. Nye did not provide a rationalized medical opinion, based on a complete factual and medical background, explaining causal relationship. He also did not explain the significance of the MRI scan findings to appellant's claimed back injury on February 3, 2003 at work. Due to these deficiencies, the report of Dr. Nye is not sufficient to establish that appellant sustained a work-related back injury on February 3, 2003.

⁴ *Edward E. Olson*, 35 ECAB 1099 (1984).

⁵ *Joseph T. Gulla*, *supra* note 3.

CONCLUSION

Appellant has failed to provide rationalized medical evidence establishing that she sustained an injury on February 3, 2002 causally related to factors of her employment.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated July 24, May 22 and March 25, 2003 are affirmed.

Issued: January 16, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member