



the performance of duty. Appellant attributed his condition to an accepted November 9, 2000 slip and fall incident in which he sustained a left elbow and lumbosacral contusions.<sup>1</sup> He asserted that this incident “aggravated and brought to light a condition [he] apparently had for some time which was again caused by [his] federal duties as a mail handler, collection carrier, mail processor for some 15 years.” Appellant first related the claimed condition to work factors on August 6, 2003. Sara E. Little, a supervisor, noted that appellant was then on modified duty and was last exposed to the identified work factors on January 9, 2002.

In a September 17, 2003 letter, the Office advised appellant of the type of medical and factual evidence needed to establish his claim, including a description of the work factors alleged to have caused his lumbar condition and a report from his attending physician explaining and supporting such a causal relationship.

In an October 1, 2003 letter, appellant described his duties as a mail handler from 1986 to 1987, collection carrier from 1987 to 1992 and mail processor from 1992 to 2000. At various times, he was required to lift sacks of mail and parcels weighing up to 70 pounds, unload mail trucks, load postal containers, load and unload postal “stackers” while bent forward in an allegedly unsafe manner, push loaded containers weighing more than 800 pounds, load processing machines, sweep mail, collect mail and operate a postal vehicle with manual doors. Appellant submitted copies of postal container weight tickets from August and October 2003, showing weights of 336 to 999 pounds.<sup>2</sup>

By decision dated October 23, 2003, the Office denied the claim on the grounds that appellant did not submit sufficient evidence to establish that the alleged work exposures occurred at the time, place and in the manner alleged. The Office also found that appellant failed to submit any medical evidence providing “a diagnosis which could be connected to the claimed event(s).”

On November 12, 2003 appellant requested an oral hearing before a representative of the Office’s Branch of Hearings and Review, held on April 27, 2004. At the hearing, appellant described the heavy repetitive lifting tasks he performed over 17 years at the employing establishment. The hearing representative advised appellant of the necessity of submitting medical evidence substantiating a causal relationship between the claimed lumbar condition and the identified work factors. After the hearing, appellant submitted additional evidence.

An employing establishment first aid report noted that on November 9, 2000 appellant “slipped on a spilled can of soda located under a pie cart, injured left elbow.” A November 10, 2000 emergency room report, noted that appellant had slipped and fallen on a wet floor at work

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<sup>1</sup> Appellant’s August 24, 2003 occupational disease claim was assigned File No. 25-2033856. On November 9, 2000, appellant filed a claim for traumatic injury (Form CA-1) for a slip and fall that day resulting in left elbow and low back injuries. This claim was assigned File No. 25-0569390. The Office accepted this claim for a lumbosacral strain and left elbow contusion. Appellant also claimed recurrences of disability for periods in 2003 related to the November 9, 2000 fall. This claim and the claims for recurrences of disability under File No. 25-0569390 are not before the Board on the present appeal.

<sup>2</sup> Appellant also submitted six photographs. However, on October 10, 2003, the Office determined that the “six pictures of a mail room,” were “non-scannable” and therefore not included in the electronic case record.

on November 9, 2000. These reports list diagnoses of a left elbow contusion and lumbosacral spine ligament strain.

Dr. Hazel Tape, an attending Board-certified internist, held appellant off work from November 13 to 20 and November 23 to December 4, 2000, due to a lumbar ligamentous strain sustained in the November 9, 2000 fall. She prescribed work restrictions from November 10, 2000 through June 10, 2003, due to the November 9, 2000 injury. A December 22, 2000 magnetic resonance imaging (MRI) scan showed lumbar spondylotic changes from L3-5, worse at L4-5, with a posterior disc protrusion at L4-5 with mild narrowing of the neural foramina. Dr. Tape then prescribed light duty and held appellant off work intermittently through November 20, 2002.

In a February 9, 2001 report, Dr. Steven Taub, an attending Board-certified internist and physiatrist, noted a six-week history of back and leg pain and that appellant worked “for the post office doing manual labor, lifting, bending, sorting mail, etc.” Appellant related that he slipped and fell at work six weeks before. Dr. Taub provided an assessment of low back pain with right sciatica. He submitted reports through April 27, 2001 diagnosing symptomatic degenerative disc disease at L4-5 without sciatica or radiculopathy.

In an April 23, 2003 letter, Dr. Tape noted that the November 9, 2000 fall precipitated appellant’s “chronic low back and leg pain” and that he believed “lifting and pushing” at work exacerbated his pain. On examination, Dr. Tape found “significant tenderness and spasm” of the lumbar paraspinous muscles. She prescribed continued light duty.

In a February 18, 2004 report, Dr. Sylvia Medley, an attending Board-certified internist, noted a history of the November 9, 2000 slip and fall and subsequent treatment. On examination, Dr. Medley found restricted lumbar motion. She diagnosed degenerative myofascial lumbar pain and lumbar disc disease without evidence of nerve root compression. Dr. Medley noted that appellant had “a history of two motor vehicle collisions in which he sustained back injury. However, he has had repetitious movements as outlined in the paperwork he gave to me at the beginning of the evaluation.” Dr. Medley found that appellant had reached maximum medical improvement and that as there were “no objective medical evidence to support his subjective symptoms, he should be able to return to work.” She recommended light duty based on appellant’s symptoms.

By decision dated June 29, 2004, the Office hearing representative affirmed the October 23, 2003 decision, finding that appellant had not submitted sufficient medical evidence to substantiate that repetitive activities at work caused the claimed lumbar condition. The hearing representative noted appellant’s employment duties involving repetitive heavy lifting, pulling and pushing. The hearing representative found that the medical evidence attributed appellant’s lumbar condition to the November 9, 2000 fall and two motor vehicle accidents, not the identified work factors. The hearing representative noted that File No. 25-2033856, pertaining to the November 9, 2000 injury, remained open before the Office.

## LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>5</sup>

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) 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 medical evidence required to establish causal relationship is generally rationalized medical opinion evidence. 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.<sup>6</sup>

## ANALYSIS

Appellant claimed that he sustained a lumbar condition due to a 17-year history of repetitive heavy lifting, pushing and pulling at work, aggravated and brought to light by an accepted November 9, 2000 lumbosacral sprain. The Office denied this claim on the grounds that he submitted insufficient medical evidence to establish the claimed causal relationship.

In support of his claim, appellant submitted reports from three physicians. Dr. Tape, Board-certified internist, prescribed light duty and held appellant off work intermittently through April 2003 due to chronic low back pain caused by the November 9, 2000 lumbar injury. In an April 23, 2003 letter, Dr. Tape noted appellant's belief that lifting and pushing at work

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>6</sup> *Solomon Polen*, 51 ECAB 341 (2000).

exacerbated his symptoms. However, Dr. Tape did not opine that these repetitive activities at work caused or aggravated any medical condition. Therefore, Dr. Tape's opinion is of little probative value in establishing causal relationship in this case.<sup>7</sup>

Dr. Taub, a Board-certified internist and physiatrist, addressed the November 2000 injury and stated that appellant worked "for the post office doing manual labor, lifting, bending, sorting mail, etc." He diagnosed degenerative disc disease at L4-5 with intermittent sciatica. However, Dr. Taub did not provide medical rationale supporting a causal relationship between lifting, bending or other work factors and the diagnosed lumbar conditions. Thus, his opinion is of diminished probative value in establishing appellant's occupational disease claim.<sup>8</sup>

In a February 18, 2004 report, Dr. Medley, a Board-certified internist, noted the November 9, 2000 injury and "two motor vehicle collisions in which he sustained back injury." She diagnosed degenerative lumbar disc disease but stated that there was "no objective medical evidence" to support appellant's symptoms. Although Dr. Medley noted that appellant performed unspecified "repetitious movements" at work, she did not attribute any diagnosis to these work factors. In the absence of medical rationale explaining how and why "repetitious movements" would cause or aggravate any medical condition, as well as an incomplete factual history, Dr. Medley's opinion is of diminished probative value in establishing causal relationship in this case.<sup>9</sup>

Appellant's physicians did not attribute his lumbar conditions to repetitive lifting, pushing, pulling or bending at work. The Board notes that appellant was advised by the Office of the need to submit medical evidence supporting a causal relationship between the identified work factors and the claimed lumbar condition. However, appellant did not submit such evidence. As appellant did not submit rationalized medical evidence supporting his allegations that repetitive heavy lifting during his postal employment caused a degenerative lumbar condition, the Office properly denied his claim.

### **CONCLUSION**

The Board finds that the Office properly denied appellant's claim for a lumbar spine condition on the grounds that he submitted insufficient medical evidence to establish a causal relationship between repetitive lifting, pushing, pulling and bending at work and the claimed lumbar condition.

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<sup>7</sup> *Steven S. Saleh*, 55 ECAB \_\_\_\_ (Docket No. 03-2232, issued December 12, 2003).

<sup>8</sup> *Kathy A. Kelley*, 55 ECAB \_\_\_\_ (Docket No. 03-1660, issued January 5, 2004).

<sup>9</sup> *Robert Broome*, 55 ECAB \_\_\_\_ (Docket No. 04-93, issued February 23, 2004).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated June 29, 2004 and October 13, 2003 are affirmed.

Issued: March 14, 2005  
Washington, DC

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member