



light duty. Dr. Kelly ordered a computerized tomography (CT) scan of appellant's abdomen and referred him to Dr. Miles L. Weaver, a Board-certified surgeon. The CT scan showed no abnormality in appellant's anterior abdominal wall.

Dr. Weaver examined appellant on February 1, 2005 and in a February 18, 2005 report on an Office form, indicated that appellant lifted at work but that there was "no specific history of an injury." He noted that appellant had an abdominal incision from previous surgeries. Dr. Weaver diagnosed incisional hernia, and, in response to the form's question of whether the condition was related to an employment activity, answered "unable to determine." On February 18, 2005 Dr. Weaver repaired appellant's incisional hernia with mesh. In a March 2, 2005 report, on an Office form he set forth a history of pain after lifting at work, and answered that he was "unable to determine" whether the condition found was related to an employment activity. In a March 2, 2005 note, Dr. Weaver stated that appellant was totally but temporarily disabled while recuperating from the surgery.

In response to an Office request for further information on his injury, appellant stated that on December 25, 2004 he lifted heavy baggage his entire shift, which began at 4:00 a.m., and started feeling pain in his abdominal area about 9:00 a.m., and that the pain increased with continued lifting, and which he attributed to adhesions from his past surgery and would go away. Appellant felt better on his days off, but the pain returned when working baggage. In a March 17, 2005 report on an Office form, Dr. Weaver set forth a history that appellant "states he developed a hernia while lifting luggage on December 25, 2004" and that he had completely recovered from his surgeries of February 11 and July 7, 2004, with a healed abdominal excision. In response to the form's question whether the condition was related to an employment activity, Dr. Weaver answered, "Lifting heavy luggage over a period of time could cause a hernia."

By decision dated April 6, 2005, the Office found that the evidence did not establish that the claimed condition was related to the accepted work activities. Appellant requested reconsideration, and submitted form reports from Dr. Weaver dated April 12 and March 24, 2005 that contained the same information as his March 17, 2005 report. In an April 14, 2005 narrative report, Dr. Weaver stated:

"[Appellant] states that he noticed the hernia after lifting a large number of heavy suitcases at work on December 25, 2004. Because he had previous surgery and had an abdominal incision, I am unable to state with absolute certainty that the lifting caused the hernia. It is, however, very likely that this precipitated the development of the incisional hernia."

By decision dated July 19, 2005, the Office denied modification of the April 6, 2005 decision, finding that the opinion of Dr. Weaver was speculative.

### **LEGAL PRECEDENT**

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected by his employment. As part of this burden he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation. The mere fact that a disease manifests

itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.<sup>1</sup> While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal.<sup>2</sup>

### ANALYSIS

In an April 14, 2005 report, Dr. Weaver, the Board-certified surgeon, who performed appellant's hernia repair, stated that it was "very likely" that his lifting of heavy suitcases on December 25, 2004 "precipitated the development of the incisional hernia." The use of the term "very likely" is speculative.<sup>3</sup> The primary reason Dr. Weaver's April 14, 2005 report is insufficient to meet appellant's burden of proof is that it contains no rationale explaining how the hernia was related to the December 25, 2004 lifting.<sup>4</sup> Such rationale is especially important given Dr. Weaver's prior statement that he was "unable to determine" if the hernia was related to lifting at work.

### CONCLUSION

The Board finds that appellant has not established that his hernia was causally related to lifting luggage on December 25, 2004.

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<sup>1</sup> *Froilan Negron Marrero*, 33 ECAB 796 (1982).

<sup>2</sup> *Ellen L. Noble*, 55 ECAB \_\_\_\_ (Docket No. 03-1157, issued May 7, 2004).

<sup>3</sup> See *Kathy A. Kelley*, 55 ECAB \_\_\_\_ (Docket No. 03-1660, issued January 5, 2004); *Jimmie H. Duckett*, 52 ECAB 332 (2001). Dr. Weaver's statement that lifting heavy baggage over a period of time could cause a hernia is more speculative, and does not address appellant's particular situation.

<sup>4</sup> Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee's burden of proof. *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 19 and April 6, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 23, 2005  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board