

By letters dated May 25, 2006, the Office advised appellant and the employing establishment that additional factual and medical evidence was needed. It explained that a physician's opinion was crucial to his claim and allotted appellant 30 days within which to submit the requested information.

In a May 1, 2006 report, Dr. James M. Bee, a Board-certified orthopedic surgeon, noted that appellant presented with an 18-month history of low back and left leg pain. He advised that appellant related that he was pushing a file cabinet at work throughout half the building and developing some stiffness within 24 hours of doing this. Within two days, appellant had developed significant back pain and leg pain that did not improve. Dr. Bee noted a history of a motorcycle accident in August 2005 in which appellant injured his back. With physical therapy, his pain resolved. He indicated that appellant was using anti-inflammatory medications and narcotic pain relievers with no benefit. Appellant indicated that he had left-sided low back pain in the upper buttocks region which extended to the lateral anterior thigh and across the anterior knee to the medial calf to the level of the ankle. Dr. Bee advised that appellant reported pain as 8 out of 10 on a 1 out of 10 scale, with 85 percent related to the leg and 15 percent related to the back. He diagnosed low back pain, degenerative disc disease, mild stenosis at L4-5, far lateral disc herniation, L3-4, left lower extremity radiculopathy.

An April 7, 2006 x-ray read by Dr. Frederick A. Steckel, a Board-certified diagnostic radiologist, revealed a schwannoma¹ at the left L4 nerve root sheath, early degenerative change of the L4-5 disc manifest by desiccation and a small posterior disc bulge with left-sided osteophytosis and a small disc protrusion with no significant central or right foraminal narrowing.

By decision dated July 7, 2006, the Office denied appellant's claim. It found that the medical evidence did not establish that the claimed medical condition resulted from accepted events. The Office noted that the medical evidence did not support that his current condition was related to the incident of February 10, 2006.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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 timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which

¹ A schwannoma is a tumor of the tissue covering the nerve sheath. See DORLAND'S ILLUSTRATED Medical Dictionary, (27th ed. 1985).

² 5 U.S.C. §§ 8101-8193.

compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.

ANALYSIS

The Office accepted that appellant moved file cabinets while at work on February 10, 2006. The Board finds that, the first component of fact of injury, the claimed incident, moving file cabinets, occurred as alleged. However, the medical evidence is insufficient to establish that the employment incident caused an injury. The medical reports of record do not establish that the moving of file cabinets at work caused a personal injury on February 10, 2006. The medical evidence contains no firm diagnosis, no rationale and no explanation of the mechanism of injury regarding the incident on February 10, 2006.

Appellant provided a May 10, 2006 report from his treating physician, Dr. Bee, who discussed the incident at work on February 10, 2006 in which appellant was moving file cabinets. He also noted that appellant sustained injury in a recent motorcycle accident. Dr. Bee diagnosed low back pain, degenerative disc disease, mild stenosis at L4-5, far lateral disc herniation, L3-4, left lower extremity radiculopathy. However, he did not address the cause of the diagnosed conditions or explain how the February 10, 2006 incident of moving file cabinets would cause or contribute to disability due to the diagnosed condition. Therefore, his report is of diminished probative value.⁵

Appellant also submitted an April 7, 2006 x-ray from Dr. Steckel. However, he merely reported findings on diagnostic testing. His report did not contain any opinion regarding the cause of the reported condition. 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.⁶

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee’s condition is of diminished probative value on the issue of causal relationship).

⁶ *Lois E. Culver (Clair L. Culver)*, 53 ECAB 412 (2002).

The medical reports submitted by appellant do not address how the February 10, 2006 incident caused or aggravated a low back injury. These reports are of diminished probative value and are insufficient to establish that the February 10, 2006 employment incident caused or aggravated a specific injury.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 7, 2006 is affirmed.

Issued: December 8, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board