



## ISSUE

The issue is whether appellant had any ongoing disability or medical condition after October 1, 2003 causally related to his July 15, 2002 employment injury.

## FACTUAL HISTORY

On September 18, 2002 appellant, then a 45-year-old substation operator, filed a traumatic injury claim alleging that he injured his back at work on July 15, 2002. The Office accepted his claim for thoracic and lumbar strains.

By decision dated October 1, 2003, the Office terminated appellant's compensation and medical benefits. It found that the weight of the medical evidence, as represented by the report of an impartial medical specialist selected to resolve a conflict in the medical evidence, established that appellant's thoracic and lumbar strain had resolved or were no longer related to his employment.

By decision dated February 18, 2004, the Office denied modification of its October 1, 2003 decision.

By decision dated July 2, 2004, the Office denied appellant's claim for disability or a medical condition after October 1, 2003.

On June 27, 2005 appellant requested reconsideration and submitted additional evidence.

In reports dated June 11 to July 8, 2004, Dr. David Musnick, an attending Board-certified internist, diagnosed lumbosacral and sacroiliac sprains. He indicated that appellant had an original sprain at work on July 15, 2002 but did not indicate any dates of disability in 2004 or the cause of appellant's diagnosed back conditions in 2004. In notes dated April 25 to June 27, 2005, Dr. Musnick noted that a March 2005 magnetic resonance imaging (MRI) scan revealed a disc bulge at T11-12. He diagnosed a lumbosacral sprain/strain and mechanical back syndrome. He did not address the cause of these conditions.

In reports dated February 24 to March 14, 2005, Dr. William Danke, a Board-certified family practitioner, provided findings on examination. He stated that a thoracic MRI scan revealed a disc bulge at T11-12, which was not present in a 2003 MRI scan and degenerative disc disease of the lumbosacral spine. He opined that the thoracic disc bulge was related to appellant's employment injury because appellant had experienced problems at the T11-12 disc level at the time of his July 15, 2002 employment injury.

In a March 8, 2005 report, Dr. Peter Ward, a neurosurgeon, indicated that appellant's March 3, 2005 MRI scan revealed a normal lumbar spine and normal thoracic spine with the exception of degenerative disc disease at T11-12 with minor bulging of the annulus. He did not provide any dates of disability or address the cause of appellant's degenerative disc disease at T11-12.

In a report dated April 15, 2005, Dr. Douglas Burns, an attending physiatrist, provided findings on physical examination and diagnosed an ongoing pain complex in the thoracolumbar

and right sacroiliac areas. He did not opine as to the cause of appellant's back problems or indicate any periods of disability. Appellant also submitted medical reports regarding his sleep disorders.

By decision dated September 27, 2005, the Office denied appellant's claim for any disability or medical condition after October 1, 2003 causally related to his July 15, 2002 employment injury.

### **LEGAL PRECEDENT**

Where the Office meets its burden of proof in justifying termination of compensation benefits, the burden is on the claimant to establish that any subsequent disability is causally related to the employment injury.<sup>3</sup> To establish a causal relationship between appellant's thoracic and lumbar strains and his ongoing back problems after October 1, 2003, he must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship.<sup>4</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>5</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's 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> Neither the fact that the disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>7</sup>

### **ANALYSIS**

The Office accepted appellant's claim for thoracic and lumbar strains. On October 1, 2003 the Office finalized its termination of appellant's compensation and medical benefits on the grounds that the accepted thoracic and lumbar strains had resolved. As noted, the issue of whether the Office properly terminated appellant's compensation benefits as of October 1, 2002 is not within the Board's jurisdiction on appeal.

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<sup>3</sup> See *Darlene R. Kennedy*, 57 ECAB \_\_\_\_ (Docket No. 05-1284, issued February 10, 2006); *Wentworth M. Murray*, 7 ECAB 570 (1955) (after a termination of compensation benefits warranted on the basis of the medical evidence, the burden shifts to the claimant to show by the weight of the reliable, probative and substantial evidence that, for the period for which he claims compensation, he had a disability causally related to the employment resulting in a loss of wages).

<sup>4</sup> *Michael S. Mina*, 57 ECAB \_\_\_\_ (Docket No. 05-1763, issued February 7, 2006).

<sup>5</sup> *Id.*

<sup>6</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Gloria J. McPherson*, 51 ECAB 441 (2000).

<sup>7</sup> *Michael S. Mina*, *supra* note 4.

Subsequent to the Office's October 1, 2003 termination decision and its February 18 and July 2, 2004 decisions, appellant submitted additional medical evidence.

In a report dated June 11, 2004, Dr. Musnick diagnosed lumbosacral and sacroiliac sprains. He did not indicate any dates of disability or the cause of appellant's diagnosed back conditions in 2004. In notes dated April 25 to July 8, 2005, Dr. Musnick noted that a March 2005 MRI scan revealed a disc bulge at T11-12. He diagnosed a lumbosacral sprain/strain and mechanical back syndrome. However, Dr. Musnick did not opine in his notes as to the cause of the diagnosed conditions. Lacking a rationalized medical opinion on causal relationship, his reports and notes are not sufficient to establish that appellant had any ongoing disability or medical condition after October 1, 2003 causally related to his July 15, 2002 employment injury.

In reports dated February 24 to March 14, 2005, Dr. Danke stated that a thoracic MRI scan revealed a disc bulge at T11-12 and opined that the thoracic disc bulge was related to appellant's employment injury because appellant had experienced problems at the T11-12 disc level at the time of his July 15, 2002 employment injury. However, Dr. Danke provided insufficient medical rationale explaining how appellant's thoracic spine disc bulge was causally related to his July 15, 2002 thoracic strain. As noted, neither the mere fact that the disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.

In a report dated April 15, 2005, Dr. Burns diagnosed an ongoing pain complex in appellant's thoracolumbar and right sacroiliac areas. However, he did not opine as to the cause of the back problems or indicate any periods of disability. Therefore, his report is not sufficient to discharge appellant's burden of proof to establish that his continuing back problems were work related. Additionally, Dr. Burns was on one side of the conflict in medical opinion, which was resolved by the impartial medical specialist, Dr. William T. Thieme, prior to the October 1, 2003 termination decision.<sup>8</sup> Consequently, his additional report is insufficient to overcome the special weight accorded the weight of the impartial medical specialist or to create a new conflict in the medical opinion evidence.<sup>9</sup>

Appellant submitted medical reports regarding his sleep disorders. However, these reports do not explain how his sleep conditions are related to his July 15, 2002 employment-related thoracic and lumbar strains and are not relevant to the issue of whether he has any ongoing disability causally related to his accepted back strains.

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<sup>8</sup> Prior to the October 1, 2003 termination decision, appellant submitted reports from Dr. Burns dated September 19, 2002 to May 30, 2003.

<sup>9</sup> See *Alice J. Tysinger*, 51 ECAB 638 (2000).

**CONCLUSION**

The Board finds that appellant failed to meet his burden of proof to establish that he had any ongoing disability or medical condition after October 1, 2003 causally related to his July 15, 2002 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated September 27, 2005 is affirmed.

Issued: June 14, 2006  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

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