

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

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**RAYMOND HORSBURGH, Appellant**

**and**

**U.S. POSTAL SERVICE, NORTH TEXAS  
PROCESSING & DISTRIBUTION CENTER,  
Coppell, TX, Employer**

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**Docket No. 06-718  
Issued: June 12, 2006**

*Appearances:*  
*Raymond Horsburgh, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge

**JURISDICTION**

On February 6, 2006 appellant filed a timely appeal from Office of Workers' Compensation Programs' decisions dated August 25 and December 22, 2005, denying his claim for a back injury. 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 sustained a back injury causally related to factors of his federal employment.

**FACTUAL HISTORY**

On June 29, 2005 appellant, then a 53-year-old electronics technician, filed a traumatic injury claim alleging that on May 23, 2005 he sustained a back strain when he attempted to remove mail tray racks in order to repair a piece of equipment.

Appellant's supervisor challenged his claim, stating that he complained of a sore back on May 23, 2005 but did not indicate that he had a work-related injury until he filed his compensation claim on June 29, 2005. The supervisor noted that appellant had a history of back problems.

By letter dated July 15, 2005, the Office asked appellant to submit additional evidence in support of his claim, including a medical report containing a diagnosis and an explanation as to how the diagnosed condition was related to his employment duties on May 23, 2005.

In a report dated July 12, 2005, Dr. Bryce I. Benbow, an attending family practitioner, provided findings on physical examination and diagnosed lumbar disc disease with radiculopathy.<sup>1</sup> He noted that appellant had worked at the employing establishment for 33 years and his duties included troubleshooting and repairing mail processing equipment. Dr. Benbow stated that the history given by appellant was that on May 23, 2005 he was pulling mail racks with a lot of force and had an immediate onset of lower back pain.

By decision dated August 25, 2005, the Office denied appellant's claim on the grounds that the medical evidence did not establish that he sustained a back condition on May 23, 2005 causally related to his employment.

Appellant requested a review of the written record.

By decision dated December 22, 2005, the Office denied modification of the August 25, 2005 decision.

### **LEGAL PRECEDENT**

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.<sup>2</sup> Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.<sup>3</sup> An employee may establish that the employment incident occurred as alleged but fail to show that his disability or condition relates to the employment incident.

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<sup>1</sup> A June 7, 2005 ultrasound study indicated that appellant had a mild inflammation of the L1-5 and left S1 joints. A June 20, 2005 nerve conduction study of appellant's lower extremities indicated a right L4 and L5 radiculopathy and a bilateral L5-S1 radiculopathy. A magnetic resonance imaging scan of appellant's lumbar spine dated July 14, 2005 indicated multilevel disc dessication, lumbar levoscoliosis, a dessicated bulge at L4-5 and a dessicated protrusion at L4-S1.

<sup>2</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>3</sup> *Shirley A. Temple*, 48 ECAB 404 (1997).

To establish a causal relationship between a claimant's condition and any attendant disability claimed and the employment event or incident, he must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. 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 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>4</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that a claimant's claimed condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.<sup>5</sup>

### ANALYSIS

The Office accepted that an incident occurred at work on May 23, 2005 but denied appellant's claim on the grounds that the medical evidence did not establish that he sustained a work-related medical condition as a result of this incident. The Office notified appellant of the medical evidence necessary to establish his claim for a back injury on May 23, 2005 but such evidence was not provided.

Dr. Benbow diagnosed lumbar disc disease with radiculopathy. He noted that appellant had worked at the employing establishment for 33 years and his duties included troubleshooting and repairing mail processing equipment. Dr. Benbow stated that the history given by appellant was that on May 23, 2005 he was pulling mail racks with a lot of force and had an immediate onset of lower back pain. However, Dr. Benbow did not explain, with medical rationale, how appellant's lumbar disc disease with radiculopathy to the lower extremities was causally related to the incident on May 23, 2005 when he pulled a mail tray, or to any other factors of his employment. As noted, to establish a causal relationship between a claimant's condition and any attendant disability claimed and the employment event or incident, he must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. The report from Dr. Benbow does not meet this criteria and does not establish that appellant sustained a work-related back injury on May 23, 2005.

### CONCLUSION

The Board finds that appellant failed to establish that he sustained a back injury on May 23, 2005 causally related to his employment.

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<sup>4</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, *supra* note 3.

<sup>5</sup> *Walter D. Morehead*, 31 ECAB 188 (1979).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated December 22 and August 25, 2005 are affirmed.

Issued: June 12, 2006  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board