

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

EUGENIA BELL-MATTHEWS, Appellant)

and)

**U.S. POSTAL SERVICE, RADIO CITY POST
OFFICE, New York, NY, Employer**)

**Docket No. 06-320
Issued: March 16, 2006**

Appearances:
Eugenia Bell-Matthews, 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
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On November 21, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated July 25, 2005 denying her traumatic injury claim. 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 traumatic injury while in the performance of duty on September 30, 2003.

FACTUAL HISTORY

On November 9, 2004 appellant, a 44-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that, on September 30, 2003, she injured her lower back as she was boxing mail. She claimed that, as she "picked up a bucket of flats using proper lifting techniques," she "felt a pull in [her] lower back." Appellant identified her injury as a "slip

dis[c].” Appellant stopped work on September 30, 2003 and returned to work on October 2, 2003.

Appellant submitted discharge instructions from St. Clare’s Hospital dated September 30, 2003. Appellant also submitted a bill from St. Vincent’s Midtown Hospital dated September 30, 2003 for emergency room services.

On November 18, 2004 the Office notified appellant that the evidence submitted was insufficient to establish her claim and advised her to provide additional documentation, including a firm diagnosis and a physician’s opinion as to how her injury resulted in the diagnosed condition. The Office asked appellant to provide: a detailed description as to how the injury occurred, including the cause of the injury; statements from any witnesses or other documentation supporting his claim; and the reason she delayed seeking medical treatment.

In an undated response received by the Office on December 6, 2004, appellant indicated that she injured herself when she picked up a bag of flats and felt a crack in her lower back. She stated that she informed her supervisor that she was in pain and went to the hospital. In response to the question as to why she delayed in filing her traumatic injury claim for over one year, appellant stated that she reported the injury to her supervisor “within that time.”

By decision dated December 27, 2004, the Office denied appellant’s claim, finding that the evidence was insufficient to establish that appellant had sustained an injury as alleged.

On January 10, 2005 appellant requested reconsideration. In a narrative statement, appellant alleged that she felt a pull in her lower back as she picked up a “priority bag of flat[s].” She stated that she dropped the bag immediately and leaned on a nearby baby carriage. Appellant then reported the incident to the night supervisor, Mr. Leach, took an aspirin and continued working. She indicated that, when the day supervisor, Mr. Richardson, reported for duty, she informed him that she was still in pain and wanted to fill out an accident report. Thereafter, the night supervisor, Mrs. Lee, accompanied her to the hospital, where she was told she had pulled a muscle in her lower back. Appellant stated that, on her way home, she stopped by the employing establishment to fill out an accident report.

Appellant submitted a note dated January 5, 2005 from Dr. Ngozi A. Ow,¹ a treating physician, who stated that appellant was “suffering from lower back pain.” He indicated that appellant had bulging discs in the lumbar spine, as seen on a magnetic resonance imaging (MRI) scan performed on October 3, 2003, “after back injury sustained at work while lifting mails.”

The record contains copies of prescriptions dated September 30, 2003 bearing illegible signatures from St. Clare’s Hospital.

¹ It is unclear whether the spelling of the doctor’s name is “Ow” or “Oh.” In either case, his credentials cannot be verified.

Appellant submitted an October 22, 2003 report of an MRI scan of appellant's lumbar spine. The report showed an impression of "posterior bulging annulus L4-5. Large uterus with multiple fibroids."

Appellant submitted a September 30, 2003 Accident Awareness and Prevention Program interview worksheet signed by appellant, Mr. Richards and a manager, Mr. Morales, reflecting that appellant injured herself lifting a #2 parcel bag weighing less than 10 pounds on September 30, 2003. In an injury notification dated December 2, 2004, Mr. Richardson stated that appellant had notified him of her back injury on September 30, 2003. In an injury and illness incident report dated September 30, 2003, Mr. Richardson indicated that appellant strained a muscle in her lower back on that date while lifting a parcel into a baby carriage.

By decision dated July 25, 2005, the Office denied appellant's claim. Finding that appellant had established that the lifting incident had occurred at the time, place and in the manner alleged, the Office determined that the medical evidence was insufficient to support that an injury resulted from the incident.

LEGAL PRECEDENT

The Federal Employees' Compensation Act² provides for payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.³ The phrase "sustained while in the performance of duty" is regarded as the equivalent of the coverage formula commonly found in workers' compensation laws, namely, "arising out of and in the course of employment."⁴

An employee seeking benefits under the Act has the burden of proof to establish the essential elements of 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 compensation is claimed are causally related to the employment injury.⁵ When an employee claims that she sustained a traumatic injury in the performance of duty, she must establish the "fact of injury," consisting of two components which must be considered in conjunction with one another. The first is whether the employee actually experienced the incident that is alleged to have occurred at

² 5 U.S.C. § 8101 *et seq.*

³ 5 U.S.C. § 8102(a).

⁴ This construction makes the statute effective in those situations generally recognized as properly within the scope of workers' compensation law. *Charles E. McAndrews*, 55 ECAB ____ (Docket No. 04-1257, issued September 10, 2004); *see also Bernard D. Blum*, 1 ECAB 1 (1947).

⁵ *Robert Broome*, 55 ECAB ____ (Docket No. 04-93, issued February 23, 2004).

the time, place and in the manner alleged. The second is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.⁶

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.⁷ An award of compensation may not be based on appellant's belief of causal relationship.⁸ Neither the mere fact that a 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 a causal relationship.⁹ Simple exposure to a workplace hazard does not constitute a work-related injury entitling an employee to medical treatment under the Act.¹⁰

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion 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 established incident or factor of employment.¹¹

ANALYSIS

The Office accepted that appellant was a federal employee, that she timely filed her claim for compensation benefits, and that the workplace incident occurred as alleged. The issue, therefore, is whether she has submitted sufficient medical evidence to establish that the employment incident caused an injury. The medical evidence presented does not contain a rationalized medical opinion explaining how the work-related incident caused or aggravated any medical condition or disability. Therefore, appellant has failed to satisfy her burden of proof.

Contemporaneous medical evidence of record includes discharge instructions from St. Clare's Hospital and a statement from St. Vincent's Midtown Hospital for emergency room services dated September 30, 2003. These documents fail to provide any opinion as to causal relationship and therefore lack probative value. The Board has long held that medical evidence

⁶ *Deborah L. Beatty*, 54 ECAB 340 (2003). See also *Tracey P. Spillane*, 54 ECAB 608 (2003); *Betty J. Smith*, 54 ECAB 174 (2002). The term "injury" as defined by the Act, refers to a disease proximately caused by the employment. 5 U.S.C. § 8101 (5). See 20 C.F.R. § 10.5(q), (ee).

⁷ *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

⁸ *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

⁹ *Florencio D. Flores*, 55 ECAB ____ (Docket No. 04-942, issued July 12, 2004).

¹⁰ 20 C.F.R. § 10.303(a).

¹¹ *John W. Montoya*, 54 ECAB 306 (2003).

which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹²

In a January 5, 2005 note, Dr. Ow stated that appellant was "suffering from lower back pain" and indicated that her October 3, 2003 MRI scan revealed bulging discs in the lumbar spine, "after back injury sustained at work while lifting mails." The Board finds that Dr. Ow's note is of limited probative value and is insufficient to establish appellant's claim. First, his characterization of appellant's condition must be considered more a reflection of her symptoms than a specific diagnosis.¹³ Dr. Ow did not provide detailed results of an examination or a complete factual background of the incident, nor did he explain the nature of the relationship between appellant's condition and the work-related incident. Therefore, his opinion lacks probative value. Dr. Ow's blanket assertion, made more than a year after the lifting incident, is not sufficient to establish a causal relationship. He is required to explain how appellant's condition was caused or aggravated by the September 30, 2003 employment incident. Dr. Ow provided no explanation for how the findings on MRI scan -- bulging discs -- were caused or contributed to by the accepted incident.

In this case, there is insufficient medical evidence of record establishing a causal relationship between a diagnosed condition and the accepted September 30, 2003 work-related incident. The Office advised appellant of the type of medical evidence required to establish her claim; however, she failed to submit such evidence. An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between her claimed condition and her employment.¹⁴ To establish causal relationship, appellant must submit a physician's report in which the physician reviews those factors of employment identified by appellant as causing her condition and, taking these factors into consideration as well as findings upon examination and appellant's medical history, explain how these employment factors caused or aggravated any diagnosed condition, and present medical rationale in support of his or her opinion.¹⁵ Appellant failed to submit such evidence and, therefore, failed to satisfy her burden of proof.

CONCLUSION

Appellant has not met her burden of proof to establish that she sustained a traumatic injury to her lower back in the performance of duty on September 30, 2003.

¹² *Michael E. Smith*, 50 ECAB 313 (1999).

¹³ *Thomas L. Hogan*, 47 ECAB 323 (1996).

¹⁴ *Patricia J. Glenn*, 53 ECAB 370 (2001).

¹⁵ *Robert Broome*, 55 ECAB ____ (Docket No. 04-93, issued February 23, 2004).

ORDER

IT IS HEREBY ORDERED THAT the July 25, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 16, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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