United States Department of Labor
Employees' Compensation Appeals Board

J.R., Appellant	)	
and	)	**Docket No. 06-1418**
	)	**Issued: October 19, 2006**
U.S. POSTAL SERVICE, POST OFFICE, Roanoke Rapids, PA, Employer	)	

Appearances:
Martin Kaplan, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 13, 2006 appellant, through his attorney, filed a timely appeal of the Office of Workers' Compensation Programs' merit decisions dated August 26, 2005 and June 5, 2006 denying his claim of injury on February 28, 2005. 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 has met his burden of proof in establishing that he sustained an injury in the performance of duty on February 28, 2005 as alleged.

FACTUAL HISTORY

On February 28, 2005 appellant, then a 41-year-old city carrier, filed a traumatic injury claim alleging that he developed low back pain on that date. In support of his claim, appellant submitted a diagnosis of chronic unremitting low back pain dated February 28, 2005.

By letter dated March 9, 2005, the Office requested additional factual and medical evidence in support of appellant's claim. In a note dated March 23, 2005, Dr. Ira M. Hardy, a Board-certified neurosurgeon, diagnosed L4-5 bulge as well as lumbar degenerative disc disease. On July 28, 2005 Dr. Gilberto Navarro, a Board-certified internist, completed a form report and diagnosed herniated lumbosacral disc. He examined appellant on February 28, 2005.

The Office denied appellant's claim by decision dated April 13, 2005 finding that the medical evidence was not sufficient to establish that a medical condition resulted from the accepted employment events.

Appellant requested reconsideration on April 19, 2005 and submitted treatment notes from Dr. Navarro dated February 28, 2005 diagnosing low back pain, radiculopathy and herniated disc of the lumbar spine. Dr. Lynn R. Johnson, a Board-certified anesthesiologist, examined appellant on March 1, 2005. He noted that appellant sought treatment on March 17, 2004 due to a bulging disc at L4-5 and L5-S1. Appellant's symptoms on March 1, 2005 related to his prior L4-5 and L5-S1 complaints.

The employing establishment provided appellant with a Form CA-16, authorization for examination and treatment, on February 28, 2005 due to the pain in his back and leg. The employing establishment indicated that there was doubt whether appellant's condition was caused by an injury sustained in the performance of duty. Dr. Navarro completed this form report on March 3, 2005 and diagnosed lumbosacral radiculopathy. He indicated with a checkmark "yes" that appellant's condition was due to his employment activities.

Dr. Navarro completed a report dated April 18, 2005 diagnosing a bulging disc in the lumbar spine and degenerative joint disease of the back. He stated, "The constant lifting, bending and prolonged standing and walking during work has created and aggravated these conditions."

By decision dated August 26, 2005, the Office determined that the April 13, 2005 decision should be modified to reflect that fact of injury was not established. The Office noted that Dr. Navarro's April 18, 2005 report was supportive of an occupational disease rather than a traumatic injury claim. As this was the only medical evidence addressing a causal connection between appellant's employment and his back condition, he had not established that a traumatic incident had occurred.

Appellant filed an occupational disease claim on November 7, 2005. The Office responded on December 1, 2005 and stated that this was a duplicate of his traumatic injury claim. Appellant's attorney requested reconsideration on March 16, 2006 and asserted a new legal argument, that appellant's claim should have been developed as an occupational disease, rather than denied as a traumatic injury.[1]

[1] Appellant's attorney cited *Betty Embry*, (Docket No. 94-2422, December 3, 1996), for the proposition that, when the wrong claim form is filed, the claim should not be denied on the grounds that fact of injury has not been established, without sufficient developing of the case "based on the facts at hand."

On March 20, 2006 appellant filed a second occupational disease claim. The Office responded on April 6, 2006 and again stated that this was a duplicate of his traumatic claim.

In a statement dated April 20, 2006, appellant related the events of February 28, 2005. He stated, "I was doing return to sender mail, I needed a tray for the return to sender mail to be placed in, while getting up to go get the tray, it was very painful to walk and I felt a sharp pain in my lower back, it also hurt when I sat down and the pain was also in my knees."

Dr. Navarro completed a report on April 13, 2006 stating that he had treated appellant since January 7, 2005 for chronic low back pain. He noted that appellant's condition had become persistently painful since February 28, 2005 and diagnosed lumbosacral radiculopathy due to a herniated disc. Dr. Navarro stated, "In my opinion the back pain has gotten worse while he was still working for the [employing establishment]."

By decision dated June 5, 2006, the Office reviewed the merits of appellant's claim and stated that his claim was reviewed as an occupational disease claim under a separate claim number.[2] The Office noted that this claim was denied on May 9, 2006 and that appellant could pursue his appeal rights under that decision. The Office concluded that the evidence of record did not support appellant's claim for a traumatic injury as there was no evidence that the injury occurred at the time, place and in the manner alleged.

LEGAL PRECEDENT

A traumatic injury is defined as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.[3] An occupational disease or illness, on the other hand, means a condition produced by the work environment over a period longer than a single workday or shift.[4]

An employee who claims benefits under the Federal Employees' Compensation Act[5] has the burden of establishing that he or she sustained an injury while in the performance of duty.[6] In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally "fact of injury" consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. The second component is

[2] Appellant's occupational disease claim is file number 062162169.

[3] 20 C.F.R. § 10.5(ee).

[4] 20 C.F.R. § 10.5(q).

[5] 5 U.S.C. §§ 8101-8193.

[6] *Deborah L. Beatty*, 54 ECAB 340 (2003).

whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[7]

The Office medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[8] He must provide an opinion on whether the employment incident described caused or contributed to the claimant's diagnosed medical condition and support that opinion with medical reasoning to demonstrate that the conclusion reached is sound, logical and rational.[9] The opinion of the Office medical adviser 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.[10]

ANALYSIS

The Board notes that the Federal (FECA) Procedure Manual provides that Office Form CA-16 is the official form for authorizing examination or treatment at the expense of the compensation fund. It is used primarily by the official supervisor to refer an employee injured by accident to a local qualified private physician or hospital of the employee's choice.[11] The Office regulations provide that a Form CA-16 shall be used primarily for traumatic injuries,[12] and that in order to be valid, a Form CA-16 must give the full name and address of the duly qualified physician or medical facility authorized to provide service and must be signed and dated by the authorizing official.[13] The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by the Office.[14] In the instant case, the employing establishment properly issued the Form CA-16. Therefore, appellant is entitled to payment of medical treatment provided by the Shared Services Center pursuant to the Form CA-16.[15]

[7] *Id.*

[8] *John W. Montoya*, 54 ECAB 306, 308 (2003)

[9] *Id.*

[10] *Louis T. Blair, Jr.*, 54 ECAB 348, 350 (2003).

[11] Federal (FECA) Procedure Manual, *Authorizing Examination and Treatment*, Chapter 3.300(3) (September 1996).

[12] 20 C.F.R. § 10.300(a).

[13] 20 C.F.R. § 10.300(c).

[14] *Id.*

[15] Where an employing establishment properly executes a Form CA-16 which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *Tracey P. Spillane*, 54 ECAB 608, 610 (2003).

Appellant filed a claim for a traumatic injury on February 28, 2005 alleging that he developed low back pain on that date in the performance of his federal duties. In a statement dated April 20, 2006, appellant alleged that he experienced back pain while retrieving a tray to process mail in the performance of duty. While he has attributed his condition to the events of a single day, the medical evidence submitted has not supported appellant's assertions. The Board has previously found that the belief of a claimant that a condition was caused or aggravated by his or her employment is not sufficient to establish causal relation.[16]

Appellant submitted medical evidence from Dr. Navarro, a Board-certified internist, including reports dated March 3 and April 18, 2005 and March 13, 2006. On March 3, 2005 Dr. Navarro indicated with a checkmark "yes" that appellant's condition was due to his employment activities. However, he did not identify the specific employment activities that he felt caused or contributed to appellant's condition. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such a report is insufficient to establish causal relationship between the diagnosed condition and the employment activity.[17]

On August 18, 2005 Dr. Navarro attributed appellant's back condition to constant lifting, bending, prolonged standing and walking in the performance of duty. He did not indicate that appellant's condition was attributable to activities on February 28, 2005 during a single work shift as required to establish a traumatic injury.[18] Instead he indicated that appellant's condition developed over a period of longer than one day, indicating that the claim was one of an occupational disease.[19] This report does not support appellant's claim for a low back condition as the result of a traumatic injury on February 28, 2005.

In the April 13, 2006 report, Dr. Navarro indicated that appellant's low back condition had been ongoing since January 7, 2005 and that it had worsened since February 28, 2005. He stated that appellant's back pain worsened while he was working at the employing establishment. The Board has held that the mere fact that a condition manifests itself or worsens during a period of federal employment does not raise an inference of causal relationship between the two.[20] Dr. Navarro did not provide a full description of the nature of appellant's back condition preexisting the claimed injury nor did he explain how appellant's work duties of February 8, 2005 would aggravate his back condition.

Appellant has not submitted the necessary medical and factual evidence to establish that he sustained a traumatic injury on February 28, 2005 as alleged.

[16] *Robert A. Boyle*, 54 ECAB 381, 384 (2003).

[17] *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

[18] 20 C.F.R. § 10.5(ee).

[19] 20 C.F.R § 10.5(q).

[20] *Louis T. Blair, Jr., supra* note 10.

CONCLUSION

The Board finds that appellant has failed to submit the necessary factual and medical evidence to establish that he sustained a traumatic injury on February 28, 2005 as alleged.

ORDER

IT IS HEREBY ORDERED THAT the June 5, 2006 and August 26, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 19, 2006
Washington, DC

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

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

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