United States Department of Labor
Employees' Compensation Appeals Board

E.W., Appellant	)	
and	)	**Docket No. 06-1105**
	)	**Issued: September 20, 2006**
DEPARTMENT OF THE NAVY, PUGET SOUND NAVAL STATION, Bremerton, WA, Employer	)	

Appearances:
E.W., pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On April 11, 2006 appellant filed a timely appeal from the February 24, 2006 merit decision of the Office of Workers' Compensation Programs, which denied his claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of appellant's claim.

ISSUE

The issue is whether appellant sustained an injury in the performance of duty on December 20, 2005.

FACTUAL HISTORY

On January 3, 2006 appellant, then a 54-year-old production machinery mechanic, filed a claim alleging that he injured his low back on December 20, 2005 while in the performance of duty: "while removing bags of paper from cart and putting them into dumpster, I had a severe pain in low back." His supervisor controverted the claim: "At the time of injury, the employee was placing paper bags filled with NOFORN information into a dumpster. The paper bags are

regular grocery bag size and weigh three to five pounds. Employee continued to work the remainder of the day without reporting an injury."

On January 19, 2006 the Office informed appellant that the evidence received was insufficient to support his claim because there was no diagnosis of any condition resulting from the alleged injury on December 20, 2005. The Office asked appellant to submit additional information to support his claim, including the following medical evidence:

> "Have your attending physician submit a detailed, narrative medical report which includes: a statement which describes a permanent material worsening of your preexisting low back condition; history of your injury and all prior industrial and nonindustrial injuries to similar parts of your body; a firm diagnosis of any condition(s) resulting from this injury (with ICD-9 diagnosis code); findings, symptoms and/or test results which support all conditions diagnosed; treatment provided; prognosis; period and extent of disability."
>
> The Office emphasized that this evidence was crucial to his claim.

Appellant submitted various medical reports and work limitation forms relating to prior injuries. Dr. G.W. Duckworth, Jr., a senior medical officer at the employing establishment health unit, sent appellant home on December 20, 2005 to see his private physician and update limitations for his chronic condition or injury. Dr. Duckworth indicated that the date of injury was December 20, 2005 and that appellant had limitations from January 3 to 13, 2006. Appellant was examined on December 21, 2005 by Dr. Louis Enkema, who diagnosed lumbosacral strain with degenerative joint disease and radiculopathy with reaggravation on October 21, 2005. Dr. Enkema referenced a prior claim for compensation. Appellant saw Dr. L. Bourdeau on December 29, 2005. Dr. Bourdeau also referenced a prior claim for compensation. A work limitations form dated January 25, 2006 indicated that the date of injury was April 2005. The treatment note from January 25, 2006 indicated that the date of injury was April 2005 with a recurrence in December 2005.

In a decision dated February 24, 2006, the Office denied appellant's claim, finding that he did not establish that he sustained an injury in the performance of duty. The Office noted that the initial evidence, consisting only of appellant's claim form, was insufficient to establish that the events occurred as alleged. The Office further noted that none of the medical evidence discussed the mechanism of an injury on December 20, 2005.[1]

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of proof to establish the essential elements of his claim. When an employee claims that

[1] The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). The Board therefore has no jurisdiction to review the medical evidence the Office received on April 10, 2006.

[2] 5 U.S.C. §§ 8101-8193.

he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.[3]

Causal relationship is a medical issue[4] 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 of the physician must be based on a complete factual and medical background of the claimant,[5] must be one of reasonable medical certainty[6] 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.[7]

ANALYSIS

The evidence supports that on December 20, 2005, while in the course of his employment, appellant removed bags of paper weighing three to five pounds from a cart and put them into a dumpster. Appellant described this mechanism of injury on his claim form, and the employing establishment confirmed that he performed the activity. The Board finds that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question that remains is whether this employment activity caused an injury.

However, none of the medical records he provided the Office support that he injured his low back on December 20, 2005 while removing bags of paper from a cart and putting them into a dumpster. Some of the records predate the claimed injury and do not directly support an injury or aggravation on December 20, 2005. Other records on or after December 20, 2005 make no mention of the employment activity he was performing. Appellant's burden includes submitting a physician's rationalized opinion on whether there is a causal relationship between his diagnosed low back condition and the employment activity on December 20, 2005. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty and must be supported by sound medical reasoning explaining the nature of the relationship between the diagnosed condition and the established employment activity. Without this medical evidence, appellant has not met his burden of proof to establish the essential element of causal relationship. The Board will affirm the Office's February 24, 2006 decision denying his claim for benefits.

[3] *See Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). *See generally John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *Mary J. Briggs*, 37 ECAB 578 (1986).

[5] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[6] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[7] *See William E. Enright*, 31 ECAB 426, 430 (1980).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty on December 20, 2005. The evidence supports that he removed bags of paper from a cart and put them into a dumpster on December 20, 2005, but none of the medical evidence identifies this employment activity or explains how this activity caused or aggravated a diagnosed low back condition.

ORDER

IT IS HEREBY ORDERED THAT the February 24, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 20, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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