

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

A.M., Appellant

and

**U.S. POSTAL SERVICE, BULK MAIL
CENTER, Cincinnati, OH, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 07-89
Issued: April 19, 2007**

Appearances:
Appellant, 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
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 11, 2006 appellant filed a timely appeal from an August 17, 2006 decision of the Office of Workers' Compensation Programs which denied his claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an employment-related injury on June 25, 2006.

FACTUAL HISTORY

On June 25, 2006 appellant, then a 45-year-old mail handler, filed a traumatic injury claim, Form CA-1, alleging that he hurt his back that day when he got up from the toilet at work. He stopped work that day and submitted emergency room reports dated June 25, 2006 in which Dr. Michael Fain, Board-certified in emergency medicine, noted the history of injury, diagnosed

acute back strain, and advised that appellant could not work June 25 and 26, 2006.¹ The employing establishment controverted the claim.

By letter dated July 12, 2006, the Office informed appellant that the evidence submitted was insufficient to establish the claim and requested that he provide a factual statement of the June 25, 2006 employment incident and a medical report in which a physician provided a reasoned explanation of how the diagnosed back strain was related to his federal employment. Appellant submitted medication prescriptions from Dr. Fain, and duplicates of evidence previously of record.

In a decision dated August 17, 2006, the Office denied the claim on the grounds that appellant had not established an injury as alleged.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or 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. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.³

Office regulations, at 20 C.F.R. § 10.5(ee) define a traumatic injury 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.⁴ To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether "fact of injury" is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed. An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relates to the employment incident.⁵

¹ The emergency room records also include a normal chest x-ray, laboratory results and an electrocardiogram.

² 5 U.S.C. §§ 8101-8193.

³ *Gary J. Watling*, 52 ECAB 278 (2001).

⁴ 20 C.F.R. § 10.5(ee); *Ellen L. Noble*, 55 ECAB ____ (Docket No. 03-1157, issued May 7, 2004).

⁵ *Gary J. Watling*, *supra* note 3.

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁶ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.⁷ 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 causal relationship.⁸

ANALYSIS

The Board finds that the June 25, 2006 incident occurred. Appellant, however, failed to meet his burden of proof to establish that he sustained an injury caused by this incident. The only medical evidence of record consists of emergency room reports dated June 25, 2006. While Dr. Fain diagnosed an acute back strain, he did not provide an opinion regarding the cause of the diagnosed condition and medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁹ The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.¹⁰ Appellant submitted no such evidence in this case and thus did not establish the critical element of causal relationship. He therefore did not meet his burden of proof to establish that he sustained an injury on June 25, 2006.¹¹

CONCLUSION

The Board finds that, while appellant met his burden of proof to establish that he sustained an employment incident on June 25, 2006, he did not meet his burden of proof to establish that he sustained an injury causally related to this incident.¹²

⁶ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁷ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

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

⁹ *Willie M. Miller*, 53 ECAB 697 (2002).

¹⁰ *Patricia J. Glenn*, 53 ECAB 159 (2001).

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

¹² The Board notes that appellant submitted evidence subsequent to the August 17, 2006 decision. The Board cannot consider this evidence, however, as its review of the record is limited to the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Oral argument scheduled for June 13, 2007 was cancelled at appellant's request.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated August 17, 2006 be affirmed.

Issued: April 19, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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