United States Department of Labor
Employees' Compensation Appeals Board

L.Y., Appellant	)	
and	)	**Docket No. 07-219**
	)	**Issued: April 20, 2007**
DEPARTMENT OF HOMELAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION, Allentown, PA, Employer	)	

Appearances:
Thomas R. Uliase, Esq., for the appellant
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 31, 2006 appellant filed a timely appeal from the May 25, 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's mitral valve condition was causally related to his federal employment.

FACTUAL HISTORY

On November 15, 2003 appellant, then a 49-year-old transportation security screener, filed a claim alleging that his mechanical mitral valve, implanted in January 2003, developed leaks by October 2003 as a result of repetitive job stress:

> "As a security screener with the [Transportation Security Administration] TSA, I was often called upon to stoop, kneel, crouch, bend, reach and lift while performing my duties of screening passengers, airline selectees and their carry-on luggage. We reach, bend and lift luggage onto an [x]-ray conveyor belt, as well as carrying it to a designated area for physical bag search. In the process of screening passengers we often stoop, bend, kneel and crouch as we waive a hand held metal detecting wand from the top of the passenger's head to the bottom of their feet. It is these repetitive motions and duties that I feel contributed to my heart condition."

Appellant added: "Prior to my employment with TSA I worked for 11 years as a production manager mainly in a cubicle environment. It wasn't until I started the physical requirements of a security screener in July 2002 that I began to notice my health deteriorate. In December 2002, I was diagnosed with a bleeding ulcer and severe mitral valve regurgitation."[1]

Medical reports showed appellant's mechanical mitral valve with two leaks, one with mild and the other with moderate mitral regurgitation. Appellant also had trace to mild aortic and tricuspid regurgitation. In October 2003, he underwent a repeat mitral valve replacement.

On October 23, 2003 Dr. William J. Hammer, a Board-certified internist specializing in cardiovascular diseases, addressed the issue of causal relationship:

> "[Appellant] had a recent mitral valve replacement and returned to work. The mitral valve has developed what is known as a paravalvular leak, most likely from the stitches that held the valve from coming loose.
>
> "This can be a consequence of the operation or it may be related to the development of high pressure resulting from his lifting. As in all cases of this, it is difficult to assign a cause and effect relationship, but I think that we can think that the lifting may have contributed to the mitral valve dysfunction."

The assistant federal security director clarified that appellant's TSA employment began August 3, 2002. He stated that, after surgery, the employing establishment fully complied with physician orders:

> "He worked primarily at [g]ate [d]uty until gate screening was eliminated in mid-August 2003. These were light-duty assignments, with no bending, lifting or repeated actions.

[1] Appellant returned to work in March 2003 with a lifting restriction of 25 pounds.

> "He has never performed baggage screening and has not been trained or certified for baggage screening. Rather, he is certified for and assigned to the passenger checkpoint, where 'baggage' is minimal and limited to carry-on bags. Hence, very little lifting, bending or other strenuous activities."

In a decision dated March 5, 2004, the Office denied appellant's claim for compensation. The Office found that the medical evidence failed to establish a causal relationship between the established work-related events and the claimed medical condition.

On April 1, 2004 Dr. Hammer wrote to clarify his position on appellant's mitral valvular disease:

> "It has been established that [appellant] had mitral valve prolapse prior to his change in employment. Mitral valve prolapse is characterized by a disorder in which there is an increase in the amount of spongiosa tissue in the mitral valve and the valve becomes much more 'rubbery.' The spongiosa tissue is the elastic part of the valve and the fibrosa is the skeleton of the valve. When a valve like this is put under increasing pressure, it is subject to mitral valve disruption.
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> "Prior to a change in his employment, [appellant's] mitral valve disease was mild to moderate. Unfortunately, after he was required to do increasing physical work at his position, which included lifting hundreds of bags of luggage, stooping, bending, kneeling and crouching, etc., evaluation of his mitral valve showed that the mitral valve had deteriorated significantly.
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> "This is not surprising. Increasing afterload pressures that occur with physical exercise, as described above, put unusual tension on a mitral valve. Valves that are subject to tear or disruption may respond by tearing and becoming more redundant, hence leading to more mitral regurgitation. [These], I believe, are the events that occurred that resulted in severe mitral regurgitation in [appellant's] condition.
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> "The results of this, of course, are that the valve must be repaired. Hence, the inevitable mitral valve replacement that occurred in January 2003, as well as the subsequent mitral valve replacement in October 2003.
>
> "It is critical that [appellant] not return to this type of work which, in my judgment, could be considered causative to the development of his mitral valve regurgitation."

In testimony before an Office hearing representative on November 30, 2004, appellant explained that he was diagnosed with mitral valve prolapse before he began working at the employing establishment. He stated that it showed up shortly after he had lost a lot of weight due to a gastric bypass around August 2001.[2] Appellant stated that sometime in October 2002 he started getting chest pains and fatigue and shortness of breath. It was in October 2002 that

[2] Appellant stated that he lost close to 220 pounds.

Dr. Hammer performed an echogram, the results of which were a concern. Appellant testified that, following his initial surgery in January 2003, he returned to full duty probably by May 2003. He stated that he then moved hundreds of bags a day, "anywhere from purses to carry-on luggage." Although there was no scale at the security checkpoint, appellant stated that some of the items he lifted exceeded 50 pounds. He further explained that he lifted baggage off the x-ray conveyor belt to an inspection table for random sampling. Appellant stated that he worked until October 24, 2003. His repeat surgery was on October 28, 2003.

On March 16, 2004 Dr. Hammer again addressed the issue of causal relationship:

> "[Appellant] had mitral valve replacement for the development of significant mitral valve regurgitation.
>
> "When his job is described, it is one of increased intrathoracic pressure and high systemic pressures from lifting most of the day. It is known that mitral regurgitation may be precipitated in patients with such increases in tension on the valve.
>
> "It is certainly conceivable that his initial events, with the development of significant mitral regurgitation, were work related and I would be happy to discuss that further with you if you would like."

In a decision dated August 17, 2005, the Office hearing representative affirmed the denial of appellant's claim for compensation. The hearing representative found that Dr. Hammer's reports were of diminished probative value because they failed to discuss appellant's significant medical history, including a gastric bypass for morbid obesity and use of Redux for weight loss, a medication taken off the market as a likely cause of heart valve problems. The hearing representative also noted that Dr. Hammer failed to discuss the rheumatic changes found in appellant's valve and its impact on the need for valve replacement surgery. Further, the hearing representative found that Dr. Hammer did not have a full understanding of appellant's position prior to and after the initial valve replacement. She also noted that in none of his reports contemporaneous to the January and October 2003 surgeries did Dr. Hammer advise that occupational factors played a part in appellant's condition or that appellant should not return to work with the employing establishment.

On January 17, 2006 Dr. Hammer once more addressed the issue of causal relationship:

> "I was very disappointed to hear that [appellant] has not been considered for compensation. I would like to point out that it is my feeling that the original mitral regurgitation was not related to fen-phen ingestion. The fen-phen question has been considerably debated in the literature and I believe that [appellant's] valve was in fact a deformed valve from other causes, possibly even rheumatic in etiology. It is the development of the lifting pressures that occur on the natural valve from the high-unit thoracic pressure, as well as high systemic pressure that can cause tension on the valve. The increasing afterload as stated before can put tension on a valve that is already distorted causing more disease to occur. Furthermore, if there is a problem with the prosthesis in that one of the areas of

the sewing ring is loose, that area can be magnified and the leak magnified significantly by similar movements and pressure changes. I think that there is a reasonable [case] to be made for [appellant's] disease to have at least a role played by the work for which he was engaged. I would be happy to answer any detailed questions, although it is difficult to respond to the vagaries of the denial. Please do not hesitate to call me because I think that this is something that is appropriate and not cavalier in its request."

In a decision dated May 25, 2006, the Office reviewed the merits of appellant's claim and denied modification of its prior decision. The Office found that Dr. Hammer's January 17, 2006 report was not based on a factual and accurate medical background, was not well reasoned and was vague and speculative.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[3] has the burden of proof to establish the essential elements of his claim. When an employee claims that 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.[4]

Causal relationship is a medical issue[5] 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,[6] must be one of reasonable medical certainty[7] 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.[8]

ANALYSIS

Certain facts are established. As a transportation security screener, appellant did not perform baggage screening. He was not trained or certified to do so. Appellant was instead assigned to the passenger checkpoint, where he screened passengers and their carry-on bags. He

[3] 5 U.S.C. §§ 8101-8193.

[4] *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).

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

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

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

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

waived a metal-detecting wand from the top of the passenger's head to the bottom of their feet and in the process would stoop, bend, kneel or crouch. Appellant also lifted carry-on bags to an x-ray conveyor belt and carried bags to a designated area for physical bag search on a rotational basis.

Other facts are not established. There is no evidence to substantiate that appellant lifted carry-on bags exceeding 50 pounds, as he testified before the Office hearing representative or luggage weighing up to 100 pounds, as his attorney asserted in his application for review. This estimate is not reliable. Appellant testified that there was no scale at the security checkpoint. According to the assistant federal security director, he performed very little lifting, bending or other strenuous activities.

Following his initial valve replacement in January 2003, appellant worked primarily at gate duty, until gate screening was eliminated in mid-August 2003. Again, according to the assistant federal security director, these were light-duty assignments, with no bending, lifting or repeated actions. The employing establishment fully complied with the only physical restriction placed on appellant, which was lifting 25 pounds.

Appellant tells a different story. He testified that he returned to full duty probably by May 2003, which he began moving hundreds of bags a day, "anywhere from purses to carry-on luggage," some of which exceeded 50 pounds. The Board finds that the weight of the evidence does not substantiate this account of events.

It is against this factual background that Dr. Hammer, appellant's cardiologist, offered his opinion on causal relationship. Dr. Hammer premised his opinion on high systemic pressure resulting from lifting at work.[9] But if he based his opinion on the assumption that appellant lifted 50- to 100-pound pieces of luggage most of the day, his opinion carries little weight. This is not established. Medical conclusions based on inaccurate or incomplete histories have little probative value.[10] A significant deficiency of Dr. Hammer's reports is that he did not accurately describe what appellant did as a transportation security screener, either before the surgery in January 2003 or upon his return to light duty. This diminishes the value of his opinion. If he believes that high unit thoracic pressure or high systemic pressure from lifting and other physical activities was sufficient to put unusual tension on the mitral valve, then he needs to support the premise with a clear description of the implicated work activities.

Another deficiency in Dr. Hammer's reports is the speculative nature of his opinion. He explained that the increasing afterload can put tension on a valve that is already distorted, causing more disease to occur. But Dr. Hammer did not show that this was anything more than a possibility. He offered no evidence that screening passengers for several months beginning August 2002 or performing light duty in 2003 caused any amount of disease to occur.

[9] In one report he also mentioned stooping, bending, kneeling and crouching.

[10] *See James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). *See generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

Dr. Hammer also explained that movements and pressure changes similar to those appellant described in his work can magnify a paravalvular leak. But again, he offered no evidence that this did in fact occur.

The medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, but neither can such opinion be speculative or equivocal.[11] Dr. Hammer has explained a pathological process that can conceivably cause more disease to occur, a process that can conceivably magnify a paravalvular leak. For appellant to establish his entitlement to workers' compensation benefits, Dr. Hammer must show to a reasonable medical certainty that this is what happened to him. An award of compensation may not be based on surmise, conjecture or speculation or upon appellant's own belief of causal relationship.[12] Temporal relationships are not enough.[13] The mere fact that a condition manifests itself or worsens during a period of federal employment raises no inference of causal relationship between the two.[14]

Dr. Hammer saw appellant in October 2002, only two to three months after he began his job as a security screener, but he gave no indication there could be some causal connection between this job and appellant's mitral regurgitation. After the valve replacement in January 2003, he found it reasonable to release appellant in mid-March to return to his duties with a lifting restriction of 25 pounds. It was Dr. Hammer who allowed appellant to continue working in his federal employment up to October 23, 2003, only days before the scheduled repeat surgery. If, as he later reported, it was critical for appellant not to return to that type of work because it could be considered causative to the development of his mitral valve regurgitation, Dr. Hammer should explain why this was not an issue before the January 2003 and October 2003 surgeries.

The Board will affirm the Office's decision denying appellant's claim for compensation benefits. Appellant has met his burden to establish certain facts about his physical activities at work, but he has not submitted a well-reasoned medical opinion, based on a complete and accurate history, showing a causal relationship between his established duties as a transportation security screener and his mitral valve dysfunction.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that his mitral valve condition was causally related to his federal employment.

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[11] *Philip J. Deroo*, 39 ECAB 1294 (1988); *Jennifer Beville*, 33 ECAB 1970 (1982) (statement of a Board-certified internist that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value).

[12] *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Pamela A. Harmon*, 37 ECAB 263 (1986); *Vernon O. Fein*, 34 ECAB 78 (1982). *See also Manuel Garcia*, 37 ECAB 767 (1986).

[13] *Thomas D. Petrylak*, 39 ECAB 276 (1987).

[14] *Steven R. Piper*, 39 ECAB 312 (1987). That an employee suffers a heart attack at work, for example, does not in itself imply that the work caused or contributed to the attack. Mere temporal relationships are thus distinguished from relationships of causation.

ORDER

IT IS HEREBY ORDERED THAT the May 25, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 20, 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