

form, the employing establishment checked “yes” to the question of whether appellant was injured in the performance of duty and noted that he was delivering a package to a residence. However, it controverted the claim on the grounds that there was no medical opinion containing a diagnosis attributing his condition to employment duties.

On January 4, 2007 Dr. Thomas A. Dimmig, a treating Board-certified orthopedic surgeon, diagnosed “Loc Prim Osteoart-pelvis.” He concluded that appellant was currently disabled from working.

In a letter dated January 12, 2007, the Office informed appellant that the evidence of record was insufficient to support his claim. The Office advised him of the medical and factual evidence required and allotted 30 days within which to submit the requested information.

In response, appellant submitted a January 4, 2007 magnetic resonance imaging (MRI) scan obtained by Dr. Dimmig, an October 21, 2006 thoracic spine diagnostic report by Dr. Richard Wheeler, a Board-certified family practitioner, and treatment notes dated October 21, 2006 from Duke Urgent Care.² Dr. Dimmig diagnosed “Loc Prim Osteoart-pelvis” with an injury date of January 3, 2007. Under comments, he noted “severe hip pain.” Dr. Wheeler reported that appellant had pain complaints and the thoracic spine x-ray interpretation was normal. In the October 21, 2006 treatment note, he noted that appellant had a work-related back injury with a diagnosis of thoracic strain.

In a January 22, 2007 MRI scan, Dr. Jeffrey Gregg, a radiologist, diagnosed left mild hamstring, mild pubic symphysis degenerative joint disease and left trochanteric bursitis and gluteus insertional tendinopathy and partial tears.

By decision dated February 14, 2007, the Office denied appellant’s claim on the grounds that he failed to establish fact of injury. It found the evidence insufficient to establish that the incident occurred as alleged and that the medical evidence failed to provide a diagnosed condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act³ has the burden of establishing the essential elements of his 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.⁴ These are the essential

² The top of the form identifies a “PCP” as Kalli.

³ 5 U.S.C. §§ 8101-8193.

⁴ *D.D.*, 57 ECAB ____ (Docket No. 06-1315, issued September 14, 2006); *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee’s condition is of diminished probative value on the issue of causal relationship).

elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a fact of injury has been established. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

ANALYSIS

Appellant alleged that he sustained a traumatic injury to his hip on January 3, 2007 while delivering mail. The Office denied his claim after finding that he did not demonstrate that the specific event occurred at the time, place and in the manner described. The Office also found the medical evidence insufficient to establish a diagnosed condition as a result of his employment.

The initial question presented is whether appellant has established that the January 3, 2007 employment incident occurred as alleged. An injury does not have to be confirmed by eyewitnesses in order to establish that an employee sustained an injury in the performance of duty, but the employee's statement must be consistent with the surrounding facts and circumstances and his subsequent course of action.⁷ An employee has not met his burden of proof when there are inconsistencies in the evidence sufficient to cast serious doubt on the validity of his claim.⁸

The Board finds that appellant established that the employment incident occurred on January 3, 2007 as alleged. The Board notes that there are no such inconsistencies in the evidence as to cast serious doubt upon the validity of appellant's claim that he experienced an employment incident on January 3, 2007. The employing establishment checked "yes" to the question of whether appellant was injured in the performance of duty, while delivering a package, on appellant's traumatic injury claim. The record contains evidence that he sought medical treatment on January 4, 2007. There is no dispute that he was in the performance of duty while delivering mail on January 3, 2007. The Board finds that the incident occurred as alleged.

However, the medical evidence is insufficient to establish that the employment incident caused an injury. The medical reports of record do not establish that appellant sustained an injury to his hip as a result of delivering mail on January 3, 2007. The medical evidence contains

⁵ *A.D.*, 58 ECAB ____ (Docket No. 06-1183, issued November 14, 2006); *Lois E. Culver (Clair L. Culver)*, 53 ECAB 412 (2002).

⁶ *M.W.*, 57 ECAB ____ (Docket No. 06-749, issued August 15, 2006); *Sedi L. Graham*, 57 ECAB ____ (Docket No. 06-135, issued March 15, 2006).

⁷ See *Betty J. Smith*, 54 ECAB 174 (2002).

⁸ *Linda S. Christian*, 46 ECAB 598 (1995).

no firm diagnosis, no rationale on the issue of causal relationship to the January 3, 2007 employment incident and no explanation of the mechanism of injury. Appellant provided reports from Drs. Dimmig and Gregg. However, neither physician provided a rationalized opinion addressing whether any specific hip condition was caused or aggravated by the incident at work on January 3, 2007. The Board has long held that medical opinions not containing rationale on causal relation are of diminished probative value and are generally insufficient to meet appellant's burden of proof.⁹

In a report and MRI scan dated January 4, 2007, Dr. Dimmig noted that appellant injured himself at work on January 3, 2007, diagnosed "Loc Prim Osteoart-pelvis" and placed appellant off work. However, he did not address or describe the January 3, 2007 incident or explain how it was competent to cause the diagnosed condition. Dr. Dimmig did not explain how the pelvis osteoarthritis condition was caused or aggravated by delivering mail. As noted above, medical opinion not containing rationale on causal relationship are entitled to little probative value and generally are insufficient to meet appellant's burden of proof.¹⁰

Dr. Gregg, based on a January 22, 2007 MRI scan diagnosed, left mild hamstring, mild pubic symphysis DJD, and left trochanteric bursitis and gluteus insertional tendinopathy and partial tears. However, he did not provide any opinion regarding the cause of appellant's condition. Medical evidence 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.¹¹ Appellant also submitted reports dated October 21, 2006 by Dr. Wheeler and Duke Urgent Care facility. These reports predate the time of the claimed injury of January 3, 2007. For this reason they are not relevant to the claim and are insufficient to establish his claim.

Because the medical reports submitted by appellant do not address how the January 3, 2007 incident caused or aggravated a hip condition, these reports are of limited probative value and are insufficient to establish that the January 3, 2007 employment incident caused or aggravated a specific injury.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof in establishing that he sustained a traumatic injury in the performance of duty on January 3, 2007.

⁹ *J.M.*, 58 ECAB ____ (Docket No. 06-2094, issued January 30, 2007); *Carolyn F. Allen*, 47 ECAB 240 (1995).

¹⁰ *Richard A. Neidert*, 57 ECAB ____ (Docket No. 05-1330, issued March 10, 2006).

¹¹ *Michael E. Smith*, 50 ECAB 313 (1999).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 17, 2007 is affirmed as modified.

Issued: August 23, 2007
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