

Dr. Susan Fishbein, Board-certified in gastroenterology, prescribed light duty based on severe arthritis with back pain. A December 4, 2000 note from Dr. Ben Chouake diagnosed osteoarthritis and opined that it may be due to the repetitive stresses of appellant's work. On April 20, 2004 the employing establishment controverted appellant's claim based on his job description. It contended that appellant was only outdoors for one hour out of his eight-hour workday.

On April 8, 2004 the Office requested additional factual and medical information from appellant. He submitted a factual statement and job description both dated March 17, 2004. A February 12, 2004 magnetic resonance imaging scan revealed slight posterior disc bulging at the C4-5 level.

In a January 12, 2004 examination, Dr Ramaiah Ganti diagnosed mild spondylosis. In a February 5, 2004 electrodiagnostic testing report, Dr. Nalini Prasad, Board-certified in neurology, concluded that appellant had mild radiculopathy. In a February 20, 2004 note, Dr. Frederick Brandt, a rheumatologist, stated that appellant could not work from December 15, 2003 through March 1, 2004. In a March 19, 2004 note, he diagnosed appellant with cervical radiculopathy caused by a bulging disc and opined that appellant's employment probably aggravated his condition. Dr. Brandt also stated that lifting heavy weights or doing repetitious activities could cause or aggravate his diagnosis.

On June 4, 2004 the Office denied appellant's claim finding that the medical evidence did not provide an explanation as to how his work activities caused or aggravated his diagnosed conditions.

On June 28, 2004 appellant requested reconsideration. In a June 17, 2004 letter, Dr. Brandt diagnosed cervical radiculopathy and osteoarthritis. Dr. Brandt opined that appellant's "lifting of heavy weights and doing repetitious activities can cause or aggravate his condition." In a June 24, 2004 addendum, he opined that "it is more likely than not, that his work exacerbated his condition."

On September 30, 2004 the Office denied modification of appellant's claim on the grounds that the medical evidence did not establish a causal relationship between appellant's employment and his condition.

On December 17, 2004 appellant requested reconsideration. In a December 7, 2004 neurological examination report, Dr. Prasad diagnosed cervical disc bulge at C4-5 and cervical radiculopathy. In a November 19, 2004 letter, Dr. Brandt opined that appellant's symptoms were aggravated by his work. Appellant submitted statements which discuss administrative actions by the employing establishment regarding his work in December 2003.

On March 21, 2005 the Office denied modification of appellant's claim.

On July 7, 2005 appellant requested reconsideration. An April 21, 2005 note from Dr. Brandt was submitted in which he opined that if appellant resumed carrying heavy bags of mail his disease would worsen. In an April 20, 2005 report, Dr. Prasad opined that appellant could not work his regular job without restrictions. On September 6, 2006 appellant requested a formal decision regarding the July 7, 2005 reconsideration request.

On December 22, 2006 the Office denied modification of the prior decision.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.¹

The medical opinion needed to establish an occupational disease claim 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.²

The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the condition and employment. Neither the fact that the condition became apparent during a period of employment, nor employee's belief that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relationship.³

ANALYSIS

Appellant alleged that the osteoarthritis in his hands, posterior disc bulge and mild spondylosis are causally related to factors of his federal employment which began on December 15, 2003. The Board finds that appellant has submitted insufficient medical evidence to establish that his conditions were caused or aggravated by his federal employment.

The medical evidence establishes the presence of multiple conditions including osteoarthritis, cervical radiculopathy, mild radiculopathy, cervical disc bulge and mild spondylosis. The factual evidence identifies employment factors that are alleged to have caused or contributed to the conditions. There is no dispute that appellant performed repetitive tasks such as casing, climbing, twisting and pushing. There is also no dispute that appellant worked outdoors for one of his eight work hours. The issue is whether the medical evidence establishes that appellant's employment activities were the proximate cause of appellant's conditions.

The medical evidence is insufficient to establish that appellant's job duties caused or contributed to his diagnosed conditions. Dr. Chouake diagnosed osteoarthritis and opined that it may be due to the repetitive stresses of appellant's work but did not explain how appellant's duties could cause or contribute to the osteoarthritis. Dr. Prasad diagnosed appellant's conditions but did not provide any opinion on causal relationship. Dr. Brandt diagnosed cervical

¹ *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB ____ (Docket No. 05-715, issued October 6, 2005).

² *Donald W. Wenzel*, 56 ECAB ____ (Docket No. 05-146, issued March 17, 2005).

³ *Alberta S. Williamson*, 47 ECAB 569 (1996).

radiculopathy and opined that appellant's employment probably aggravated his condition. However, his opinion is not definite. The Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.⁴ Dr. Brandt also opined that appellant's symptoms were aggravated by his work. While he concluded that appellant's symptoms were aggravated by his work, he failed to address the causal relationship between the two. To establish causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination, explain how physiologically the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.⁵ It is not enough to state that appellant's work is related to his conditions, the medical opinion must present a medical rationale in support to establish that appellant's specific work duties are causally related to his diagnosed condition.

The medical opinion needed to establish an occupational disease claim 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.⁶ No such opinion has been submitted. Appellant has failed to submit medical evidence to establish causal relationship and, therefore, has failed to discharge his burden of proof to establish that he sustained a condition due to factors of his federal employment.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an occupational disease in the performance of duty.

⁴ *Kathy A. Kelley*, 55 ECAB 206 (2004).

⁵ *Calvin E. King*, 51 ECAB 394 (2000).

⁶ *Donald W. Wenzel*, 56 ECAB ____ (Docket No. 05-146, issued March 17, 2005).

ORDER

IT IS HEREBY ORDERED THAT the December 22, 2006 decision of the Office of Workers Compensation Programs is affirmed.

Issued: November 13, 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