

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

C.N., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Pittsburgh, PA, Employer)

**Docket No. 08-55
Issued: April 7, 2008**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 5, 2007 appellant filed a timely appeal from a September 11, 2007 merit decision of an Office of Workers' Compensation Programs hearing representative affirming an April 9, 2007 decision finding that appellant's back condition was not causally related to her employment. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish that she sustained a back condition causally related to factors of her federal employment.

FACTUAL HISTORY

On January 11, 2007 appellant, then a 54-year-old letter carrier, filed an occupational disease claim alleging that she had worked for the employing establishment for 25 years and sustained back and leg pain due to factors of her employment. Her duties as a letter carrier included that she had to carry weight on her back and in her arms. Appellant alleged that she had

to twist and pull for the majority of the day to pull mail out of her mailbag. She first became aware of her condition and its relation to her work on January 10, 2007.¹ Appellant did not stop work.

In a January 11, 2007 treatment note, Dr. Shreeniwas Lele, Board-certified in internal medicine, indicated that appellant presented with complaints of back and left leg pain. He advised that appellant related that she had to “lift heavy weight” at work. Dr. Lele also noted that appellant had a history of back pain. He diagnosed back pain with radiculopathy and opined: “I think it is a disc disease.” In a January 11, 2007 duty status report, Dr. Lele determined that appellant had severe pain in the lower left back and lower part of the body. He determined that appellant had back pain and opined that she could return to work on a limited-duty basis.

In a January 12, 2007 statement, appellant noted that she carried weight in her arms and on her back. She stated that for the “majority of the time I am twisting to pull out a third bundle out of my mailbag, throwing off my posture with weight.” Appellant alleged that on January 10, 2007 she could not complete her route due to severe back pain.

By letter dated January 30, 2007, the Office informed appellant of the evidence needed to support her claim and requested that she submit additional evidence within 30 days.

The Office subsequently received a November 3, 2006 treatment note from Dr. Lele, who diagnosed back pain and carpal tunnel syndrome. He recommended light duty and medication. In a January 11, 2007 duty status report, the physician outlined physical restrictions. On February 3, 2007 appellant accepted an offer of modified duty. The employing establishment indicated that she was working limited duty and also had a separate carpal tunnel claim. In a February 1, 2007 duty status report, Dr. Lele continued her light-duty restrictions. In a February 15, 2007 report, he noted that appellant had complaints of back pain “for quite a few days.” Dr. Lele indicated that appellant related that “after long day at the work, it makes it worse.” He conducted a physical examination which was normal, limited straight leg raising on the left and diffuse tenderness. Dr. Lele recommended a magnetic resonance imaging (MRI) scan and continued appellant’s restrictions of not lifting heavy weight or bending.

In a February 2007 statement, appellant described her activities as a letter carrier and her back pain that she alleged resulted from her work.

By decision dated April 9, 2007, the Office denied appellant’s claim, finding that the medical evidence was insufficient to establish that her condition was caused by her employment duties. The Office accepted that appellant performed the duties of a letter carrier.² However, the medical evidence did not provide a definitive diagnosis which was connected to the accepted work exposure.

¹ Appellant also alleged that, during her tenure with the employing establishment, she was in two motor vehicle accidents at work.

² The Office noted that her duties included walking with weight on her back, twisting and pulling. The Office also acknowledged that appellant was involved in two motor vehicle accidents.

On April 14, 2007 appellant's representative requested a hearing, which was held on August 7, 2007.³

Dr. Lele submitted duty status reports dated March 31 and April 4, 2007. He noted his previous findings in which he indicated that appellant had back pain. Dr. Lele also noted that appellant had carpal tunnel syndrome. He prescribed light-duty restrictions.

By decision dated September 11, 2007, the Office hearing representative affirmed the April 9, 2007 decision.

LEGAL PRECEDENT

In order 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.⁴ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵

To establish causal relationship, appellant must submit a physician's report in which the physician reviews the factors of employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings on examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his opinion.⁶

ANALYSIS

The Office accepted that appellant performed the duties of a letter carrier, which required walking with weight on her back and twisting and pulling. However, the Office found that the medical evidence did not establish that her claimed medical condition arose from these employment factors.

³ At the hearing, appellant noted two prior work-related injuries. She referred to an injury that occurred in May 1994 when she was hit by a motor vehicle causing her neck and upper back injuries. Appellant also stated that, in October 1995, she was broadsided by another driver while in her employing establishment vehicle. She alleged that she returned to full duty in 1996, but that her conditions were aggravated by daily walking and carrying mail. Appellant also noted that she had a separate claim for bilateral carpal tunnel syndrome. File No. 09-2078504. These other claims are not before the Board on the present appeal.

⁴ *Solomon Polen*, 51 ECAB 341 (2000); *see also Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, *supra* note 4 at 352.

⁶ *Donald W. Long*, 41 ECAB 142, 146-47 (1989).

Appellant submitted reports from her treating physician, Dr. Lele. On January 11, 2007 Dr. Lele indicated that appellant presented with complaints of back and left leg pain and a history of back pain. He noted that appellant related that she had to “lift heavy weight” at work and that she indicated that her pain worsened after work. Dr. Lele diagnosed back pain with radiculopathy and opined: “I think it is a disc disease.” However, he did not specifically discuss whether appellant’s work duties were the cause of her pain. This report is of little probative value.⁷ Further, the Board has held that a diagnosis of “pain” does not constitute the basis for the payment of compensation.⁸ Additional reports from Dr. Lele have similar deficiencies. On November 3, 2006 he again diagnosed back pain and carpal tunnel.⁹ However, he did not address how specific employment activities caused or aggravated the diagnosed conditions. On February 15, 2007 Dr. Lele noted that appellant related that, “after a long day at work,” her pain became “worse.” However, he did not provide any opinion addressing how particular employment factors caused or aggravated her medical condition. Other reports from Dr. Lele also did not specifically address the relationship between appellant’s employment factors and a diagnosed medical condition.

Because appellant has not submitted reasoned medical evidence explaining how particular employment factors caused or aggravated a diagnosed back condition, appellant has not met her burden of proof in establishing her claim.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained a back condition causally related to factors of her federal employment.

⁷ *Id.*

⁸ *John L. Clark*, 32 ECAB 1618 (1981).

⁹ The carpal tunnel claim is not before the Board in the present claim.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 11, 2007 is affirmed.

Issued: April 7, 2008
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