

By letter dated February 5, 2007, the Office advised appellant that additional factual and medical evidence was needed. It explained that a physician's opinion was crucial to his claim and allotted 30 days to submit the requested information.

In a February 6, 2007 response, appellant alleged that, on December 1, 2005, he was lifting weights while on approved government physical fitness time and using government equipment. While he was doing overhead presses of 115 pounds in a seated position, he felt a "tweek" in his lower back which caused a sharp pain. Appellant informed Rob Tvrn, his immediate supervisor, who advised that he should file a Form CA-1. He also indicated that the immediate effects of his injury included extreme lower back pain, which caused difficulty walking. Appellant indicated that he had not seen a physician, with the exception of having x-rays taken on November 16, 2006 "for other problems." He indicated that his x-rays revealed degenerative changes of the spine.

By decision dated March 21, 2007, the Office found that the evidence supported the December 1, 2005 incident as alleged, but the medical evidence did not establish that appellant sustained a diagnosed condition causally related to the incident.

On April 5, 2007 appellant requested a hearing. On November 28, 2007 he requested a review of the written record. Appellant reiterated that his lower back injury occurred while weight lifting. He noted that he had since had three occurrences of lower back pain which were similar to the initial injury but did not seek medical attention.

By decision dated February 12, 2008, the Office hearing representative affirmed the March 21, 2007 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 Act² and that an injury was sustained in the performance of duty.³ These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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 or she actually

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁴ *Delores C. Ellyet*, 41 ECAB 992 (1990).

experienced the employment incident at the time, place and in the manner alleged.⁵ 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 on December 1, 2005 he sustained a low back injury during required physical fitness training in the performance of duty. The Office accepted that appellant was engaged in authorized weight training when the claimed injury occurred. The Board finds that the December 1, 2005 incident occurred as alleged.

The Board finds, however, that there was no medical evidence submitted to establish that appellant sustained a low back injury causally related to the incident of December 1, 2005. In a letter dated February 5, 2007, the Office requested that appellant submit medical evidence in support of his claim, including a comprehensive medical report from a treating physician which included a diagnosis and reasoned explanation as to how the incidents caused an injury. However, no medical evidence was submitted.

Appellant's burden of proof includes the submission of rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship between the employment incident and the diagnosed condition. The record contains no medical evidence. Because appellant has not submitted medical opinion explaining how and why a diagnosed low back condition was caused by the incident of December 1, 2005, he has not met his burden of proof. He has failed to establish a *prima facie* claim for compensation.⁷

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁸ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment, nor the belief that his or her condition was caused, precipitated or aggravated by his or her employment, is sufficient to establish causal relationship.⁹

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.*

⁷ *Donald Wenzel*, 56 ECAB 390 (2005).

⁸ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁹ *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the February 12, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 23, 2008
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

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