United States Department of Labor
Employees' Compensation Appeals Board

K.B., Appellant	)	
and	)	**Docket No. 08-1624**
	)	**Issued: December 15, 2008**
U.S. POSTAL SERVICE, POST OFFICE, Providence, RI, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 20, 2008 appellant filed a timely appeal of the Office of Workers' Compensation Programs' decision dated May 5, 2008 which denied his claim. 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 met his burden of proof in establishing that he sustained a traumatic injury in the performance of duty on March 17, 2008.

FACTUAL HISTORY

Appellant, a 45-year-old postal carrier, filed a Form CA-1, traumatic injury claim for continuation of pay/compensation on March 20, 2008, alleging that on March 17, 2008 he was involved in a motor vehicle accident in the course of his employment during which the postal vehicle he was driving was struck from behind by a sport utility vehicle. He alleged that he suffered injury to his neck and lower back.

In support of his claim, appellant submitted nurse's notes from Landmark Medical Center indicating that he was treated at the medical center on March 17, 2008 for neck/lumbar strain and was released to return to modified work on March 20, 2008 and to full duty on March 24, 2008. He also submitted an attending physician's report dated March 20, 2008, which was signed by a physician,[1] stating that appellant was examined on March 17, 2008, that he was not hospitalized, that he had a prior history of "C5-6 replaced in 2002," that his current diagnosis was lumbar/neck strain, and indicated by check mark that his current diagnosis was not caused or aggravated by his employment activity.

By letter dated April 4, 2008, the Office informed appellant that the evidence submitted was insufficient to support a traumatic injury claim because he had not submitted the necessary medical evidence providing a physician's opinion as to how the alleged injury resulted in the condition diagnosed. In response to this letter, appellant submitted additional evidence, including: a duplicate copy of the attending physician's report dated March 20, 2008; a treatment note signed by Deb Beauvais, R.N.P., dated March 17, 2008; a copy of an offer of modified assignment and a March 20, 2008 duty status report.

By decision dated May 5, 2008, the Office denied appellant's claim because the medical evidence presented did not demonstrate that the claimed medical condition was causally related to an employment-related event.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim including: the individual is an employee of the United States within the meaning of the Act; the claim was filed within the applicable time limitation of the Act; 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[2]

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[3] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee

[1] The physician's signature is illegible.

[2] *Gary J. Watling*, 52 ECAB 357 (2001).

[3] *Michael E. Smith*, 50 ECAB 313 (1999).

must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.[4]

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. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.[5] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[6]

ANALYSIS

The Office accepted that appellant was involved in a work-related incident on March 17, 2008 when his postal vehicle was rear-ended by another motor vehicle. Although appellant submitted a number of medical records from the Landmark Medical Center concerning his treatment on March 17, 2008, the only report signed by a physician indicated that appellant had a diagnosis of lumbar/neck strain which was not caused or aggravated by the accepted employment activity. This physician's report indicates that appellant had cervical spine complaints dating back at least to 2002. This evidence does not provide a positive opinion, with detailed rationale, explaining the relationship between appellant's lumbar/neck strain and the employment incident. Rather it denies a causal connection entirely: stating that appellant's lumbar/neck strain was attributable to a preexisting condition or injury and was not caused or aggravated by an employment activity.

Furthermore, the other treatment notes from Landmark Medical Center were all prepared by nurses, not physicians. Health care providers such as nurses**,** acupuncturists, physician's assistants and physical therapists are not considered physicians under the Act.[7] Thus, their opinions on causal relationship do not constitute rationalized medical opinions and have no weight or probative value regarding the issue of causal relationship.

Accordingly, the Board finds that appellant has not met his burden of proof in establishing that he sustained a traumatic injury in the performance of duty on March 17, 2008.

[4] *Id.*

[5] *Leslie C. Moore*, 52 ECAB 132 (2000).

[6] *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

[7] 5 U.S.C. § 8101(2); *see also Jerre R. Rinehart*, 45 ECAB 518 (1994); *Barbara J. Williams*, 40 ECAB 649 (1989); *Jan A. White*, 34 ECAB 515 (1983).

CONCLUSION

The Board finds the Office properly concluded that appellant has not met his burden of proof in establishing that he sustained an employment-related injury on March 17, 2008.

ORDER

IT IS HEREBY ORDERED THAT the May 5, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 15, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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