United States Department of Labor
Employees' Compensation Appeals Board

D.H., Appellant	)	
and	)	**Docket No. 07-2144**
	)	**Issued: February 1, 2008**
U.S. POSTAL SERVICE, POST OFFICE, Brooksville, FL, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On August 20, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated June 25, 2007, denying her claim for compensation. 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 established an injury in the performance of duty on May 10, 2007.

FACTUAL HISTORY

On May 14, 2007 appellant, then a 53-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on May 10, 2007 at 3:00 p.m. she sustained an injury during mail delivery. She twisted to get a parcel from the back seat, but it was too heavy so she got out of the vehicle to pick up the parcel. Appellant alleged that she strained muscles in her back and arm, with numbness in the fingers of her left hand. The reverse of the claim form indicated that

appellant stopped work on May 10, 2007. The employing establishment controverted the claim, stating that appellant originally reported to her supervisor that she did not know how she hurt her arm.

The record indicates that appellant was treated on May 12, 2007 at a hospital emergency room reporting sharp left upper back and shoulder pain for three days. The hospital report by Dr. Habib Karkavandian also stated that appellant worked at the employing establishment and carried heavy boxes and mails every day, noting that appellant felt she pulled a muscle in her back. The report stated, "Patient suffered acute trauma as a result of lifting/turning." Dr. Karkavandian diagnosed acute dorsal strain.

In a form report (Form CA-20) dated May 15, 2007, a physician diagnosed neck sprain.[1] The history of injury is illegible and a box "yes" was checked in response to a question as to whether the condition was caused or aggravated by employment, with the physician stating "most probably." Appellant also submitted a May 17, 2007 report of a magnetic resonance imaging scan of the cervical spine, a May 15, 2007 duty status report and a form report indicating that she could work with restrictions as of May 15, 2007.

By decision dated June 25, 2007, the Office denied the claim for compensation. The Office found the medical evidence was insufficient to establish the claim.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing that he or she sustained an injury while in the performance of duty.[3] 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. The second component is whether the employment incident caused a personal injury and, generally, this can be established only by medical evidence.[4]

The Office's procedures recognize that a claim may be accepted without a medical report when the condition is a minor one which can be identified on visual inspection.[5] In clear-cut traumatic injury claims, such as a fall resulting in a broken arm, a physician's affirmative statement is sufficient and no rationalized opinion on causal relationship is needed. In all other

[1] The signature of the physician is illegible.

[2] 5 U.S.C. §§ 8101-8193.

[3] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

[4] *See John J. Carlone*, 41 ECAB 354, 357 (1989).

[5] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d) (June 1995).

traumatic injury claims, a rationalized medical opinion supporting causal relationship is required.[6]

Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between a diagnosed condition and the identified employment factor. The opinion of the physician must be based on a complete factual and medical background, must be of reasonable medical certainty and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.[7]

ANALYSIS

Appellant alleged that on May 10, 2007 at approximately 3:00 p.m. she sustained an injury to her back and arm. She did not provide a detailed statement regarding the incident. The claim form noted that she twisted to retrieve a parcel while in her delivery vehicle, although it appears the injury occurred after she left the vehicle and attempted to lift the parcel. While the employing establishment controverted the claim because appellant did not notify her supervisor of an injury until May 14, 2007, the Office did not base the denial of the claim on the first component of fact of injury. Appellant did report the incident on the claim form within a few days of the alleged incident, and did seek medical attention on May 12, 2007. The record does not contain such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim.[8] The record is sufficient to establish the first component of fact of injury.

The May 12, 2007 hospital report provided a history that appellant's job required lifting on a daily basis. Although the report referred to acute trauma as a result of lifting/turning, there was no specific history of a May 10, 2007 employment incident. Moreover, the report did not contain a rationalized medical opinion on causal relationship between a diagnosed acute dorsal strain and a May 10, 2007 incident. There must be more than a brief reference to "lifting/turning" without further explanation.

The form report dated May 15, 2007 with a checked box "yes" on causal relationship is not sufficient to establish the claim. It is well established that the checking of a box "yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.[9] The physician did not provide additional explanation, stating only "most probably" without further discussion. Moreover, it is not clear what history of injury was provided, as the report is primarily illegible in noting the history of injury.

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[6] *Id.*

[7] *Jennifer Atkerson*, 55 ECAB 317, 319 (2004).

[8] *Tia L. Love*, 40 ECAB 586, 590 (1989); *Merton J. Sills*, 39 ECAB 572, 575 (1988). An employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence. *See Robert A. Gregory*, 40 ECAB 478, 483 (1989).

[9] *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).

The Board finds that the record does not contain a medical report with an accurate history and a rationalized opinion on causal relationship between a diagnosed condition and the May 10, 2007 employment incident. It is appellant's burden of proof and the Board finds that she did not meet her burden of proof in this case.

CONCLUSION

Appellant did not meet her burden of proof to establish an injury in the performance of duty on May 10, 2007.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 25, 2007 is affirmed.

Issued: February 1, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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