

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

L.L., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Lansing, MI, Employer**

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**Docket No. 08-984
Issued: September 4, 2008**

Appearances:

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

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On February 19, 2008 appellant filed a timely appeal from the Office of Workers' Compensation Programs' January 16, 2008 merit decision affirming the denial of 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 causally related to her light-duty job from April 3 to 10, 2007

FACTUAL HISTORY

On April 11, 2007 appellant, then a 37-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that due to low back and neck disc herniations it was "hard to stand on your feet for eight [hours]." She stated that prolonged standing had caused pain that

ran down her legs. The record indicates that appellant had a prior claim for a work injury on January 31, 2006. She returned to a light-duty job from April 3 to 10, 2007.¹

In a note dated June 8, 2007, Dr. Harold Roth, an osteopath, stated, “standing at work has resulted in increased low back pain from previous injury on [January 30, 2006].” In a separate note of the same date, he diagnosed increased low back pain “secondary to work-related trauma.”

By decision dated July 17, 2007, the Office denied the claim for compensation. The Office found the factual and medical evidence insufficient to establish the claim. Appellant requested a telephonic hearing with an Office hearing representative, which was held on November 14, 2007. Appellant stated that when she returned to work she had to stand at a machine all the time, except for two 15-minute breaks and a 30-minute lunch break. She also indicated that she had to twist to unload the mail.

In a report dated March 1, 2007, Dr. Michael Holda, an orthopedic surgeon, diagnosed C4-5 disc protrusion and L5-S1 disc extrusion. He stated that he felt “these were related to the injury that she described.” Appellant also submitted a November 13, 2006 report from Dr. Subhash Gupta, a pain management specialist, who provided results on examination, stated that conservative management of her pain from a January 2006 injury had failed and recommended a lumbar epidural.

By decision dated January 16, 2008, an Office hearing representative affirmed the July 17, 2007 denial of the claim. The hearing representative found the medical evidence insufficient to establish the claim.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees’ Compensation Act² has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.³

To establish that an injury was sustained in the performance of duty, a claimant must submit: (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

¹ According to appellant, the claim was accepted for head contusion, cervical strain, lumbar contusion, C4-5 disc protrusion and L5-S1 disc extrusion.

² 5 U.S.C. §§ 8101-8193.

³ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁴ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵ 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.⁶ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁷

ANALYSIS

The record indicated that appellant returned to a light-duty job on April 3, 2007 and filed the current claim on April 11, 2007. She is claiming her light-duty job aggravated her low back and neck conditions. Appellant specifically identified prolonged standing and repetitive twisting as causing her disability.

It is appellant's burden of proof to submit probative medical evidence on causal relationship between a diagnosed condition and the identified employment factors. Appellant did not meet her burden of proof in this case. Dr. Roth stated that standing at work increased appellant's low back pain, without further explanation. He did not provide a complete factual and medical history, a diagnosis or a rationalized medical opinion on causal relationship between a diagnosed condition and the identified employment factor. Dr. Holda's report was dated prior to the identified employment factors and the "described" injury apparently refers to the prior traumatic injury claim. Dr. Gupta did not discuss the relevant issues.

The Board finds that appellant did not submit probative medical evidence on the relevant causal relationship issue presented. She did not meet her burden of proof and the Office properly denied the claim.

CONCLUSION

The evidence of record is not sufficient to establish an injury causally related to the identified employment factors.

⁵ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated January 16, 2008 and July 17, 2007 are affirmed.

Issued: September 4, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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