

On May 20, 2008 the Office advised appellant of the factual and medical evidence necessary to establish his claim and allowed him 30 days to submit such evidence. In particular, it requested a physician's report with an opinion on how his injury resulted in the condition diagnosed.

Appellant submitted an attending physician's report dated May 1, 2008 from Dr. T.H. Kankanam-Gamage, a Board-certified internist, diagnosing right lumbar strain. The report noted that appellant had pain in his lower back after he tripped. Dr. Kankanam-Gamage checked a box "yes" indicating a history of preexisting injury and explained that appellant had previously injured his back at work in a similar area. He also checked a box "yes" indicating his belief that appellant's condition was causally related to his work activity. Dr. Kankanam-Gamage advised that appellant could work with restrictions on lifting for one week.

In a decision dated June 23, 2008, the Office denied appellant's claim for compensation finding there was no medical evidence providing a diagnosis which could be connected to the claimed event.

Appellant requested reconsideration on July 30, 2008. In support of his claim, he submitted a May 1, 2008 treatment note from Denise Finn-Rizzo, a nurse practitioner, indicating that appellant was working on a plane and tripped. Ms. Finn-Rizzo diagnosed right lumbar muscular strain. Appellant also submitted the May 1, 2008 attending physician's report already of record.

In an August 19, 2008 decision, the Office denied modification of its June 23, 2008 decision finding that appellant did not provide medical evidence from a qualified physician to substantiate that he sustained an injury causally related to an established work incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act; that the claim was filed within the applicable time limitation; that an injury was sustained while 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 on a traumatic injury or an occupational disease.²

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 experienced the employment incident at the time, place and in the manner alleged. Second, the

¹ 5 U.S.C. §§ 8101-8193.

² *S.P.*, 59 ECAB ___ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.³

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable 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 employee.⁴

ANALYSIS

The record reflects that appellant tripped over armor at the entry of a flight deck at work on April 29, 2008. However, the medical evidence is not sufficient in establishing that tripping over the armor caused or aggravated his claimed lower back condition.

In a May 1, 2008 attending physician's report, Dr. Kankanam-Gamage noted that appellant had pain in his lower back after he tripped. He also checked a box "yes" indicating that appellant's condition was caused or aggravated by an employment activity. Dr. Kankanam-Gamage also indicated that appellant had a preexisting back injury that he sustained at work in a similar area. Although the checkmark "yes" indicates support for causal relationship, without medical rationale, this opinion has little probative value and is insufficient to establish a causal relationship.⁵ Medical rationale is particularly important as Dr. Kankanam-Gamage noted that appellant had previously sustained a back injury at work. He did not address the reasons the April 29, 2008 incident specifically caused or aggravated appellant's diagnosed lower back condition.

Appellant also submitted a May 1, 2008 treatment note from Ms. Finn-Rizzo who noted that appellant tripped while working on a plane. Ms. Finn-Rizzo also diagnosed right lumbar muscular strain. However, nurses are not "physicians" as defined under the Act. Their opinions are of no probative value.⁶

³ *Id.*

⁴ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁵ See *Lucrecia Nielsen*, 42 ECAB 583 (1991); *Lillian Jones*, 34 ECAB 379 (1982) (an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's disability was related to the history given is of little probative value).

⁶ *Roy L. Humphrey*, 57 ECAB 238 (2005); see 5 U.S.C. § 8101(2) (defining the term "physician"); see also *Charley V.B. Harley*, 2 ECAB 208 (1949) (the Board held that medical opinion, in general, can only be given by a qualified physician).

Appellant did not submit any other evidence from a physician that addresses the issue of causal relationship. Consequently, he has not established that tripping over armor on April 29, 2008 caused or aggravated his claimed lower back condition.

CONCLUSION

The Board finds that appellant did not meet his burden of proof in establishing that he sustained a traumatic injury on April 29, 2008 in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decisions dated August 19 and June 23, 2008 are affirmed.

Issued: August 25, 2009
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