

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

J.B., Appellant)

and)

**U.S. POSTAL SERVICE, POST OFFICE,
Portland, ME, Employer**)

**Docket No. 09-84
Issued: February 17, 2009**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On October 15, 2008 appellant filed a timely appeal of the Office of Workers' Compensation Programs' decision dated August 1, 2008 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 met her burden of proof in establishing that she sustained a traumatic injury on May 7, 2007 in the performance of duty.

FACTUAL HISTORY

On May 23, 2007 appellant, then a 25-year-old letter carrier, filed a traumatic injury claim alleging that she sustained a pinched sciatica nerve and lumbar sprain on May 7, 2007 due to repetitive bending while delivering mail on a route with low mail slots. She stopped work on May 9, 2007 and returned to work on May 15, 2007. The employing establishment controverted her claim.

Appellant submitted several medical documents in support of her claim. In a May 8, 2007 emergency room treatment note, Dr. Alicia Faller, Board-certified in emergency medicine, diagnosed low back strain and instructed appellant not to work the following day. She also advised no driving routes and no carrying routes for work until cleared by her primary care physician. In a May 14, 2007 status report, Dr. Christopher Short, a family medicine specialist, diagnosed lumbar sprain and sciatica. He advised that appellant could return to work on May 15, 2007 provided there would be limited squatting and kneeling and no repetitive lifting over 10 pounds. In a May 21, 2007 status report, Dr. Short confirmed his diagnosis and advised that appellant could return to work that day with limited bending and squatting. He released appellant from his care. Appellant also submitted a May 25, 2007 status report from Jon Petkers, a physical therapist, who diagnosed lumbar sprain and sciatica.

In a June 1, 2007 letter, the Office advised appellant of the factual and medical evidence necessary to establish her claim and allowed her 30 days to submit such evidence. It requested that appellant provide a physician's report explaining how the claimed injury resulted in the diagnosed condition.

In response, appellant submitted a May 21, 2007 progress note from Dr. Short, who stated that appellant returned for a recheck of the injury sustained on May 7, 2007. Dr. Short reiterated his diagnosis of lumbar sprain and sciatica and advised modified activity of bending and squatting as tolerated. On May 30, 2007 he noted that appellant was able to perform regular activities and could return to work that day. Dr. Short released appellant from his care. Appellant also submitted a May 25, 2007 progress note from Mr. Petkers and a May 30, 2007 progress note from Barbara Wendell, a physical therapist.

In a July 6, 2007 decision, the Office denied appellant's claim for compensation finding that she did not establish that her back condition resulted from the accepted incident and that the medical evidence did not support causal relationship.

Appellant requested reconsideration and submitted a May 8, 2007 emergency room report from Dr. Faller, who noted appellant's subjective complaint of low back pain radiating down her legs due to carrying her mailbag and that she did lots of bending at work. She diagnosed low back strain. In a May 8, 2007 diagnostic report, Dr. David Langdon, a Board-certified diagnostic radiologist, interpreted x-rays of appellant's lumbar spine and noted that the vertebral height was intact, the curvature was intact and no pars fractures were seen. He also noted some sclerosis at the L5-S1 levels. In a May 14, 2007 report, Dr. Short stated that appellant complained of a back injury sustained on May 7, 2007 when delivering mail and bending for low mail slots. He noted that appellant reported that she was on a different delivery route and had to do more bending. Dr. Short diagnosed lumbar sprain and sciatica and noted that appellant's condition limited her ability to perform the essential functions of her job. Appellant submitted physical therapy progress notes from Mr. Petkers dated May 15 to 23, 2007. She also submitted an undated statement explaining that she injured her back on May 7, 2007 while delivering a full route with low, small mail slots.

In an August 1, 2008 decision, the Office denied modification of its July 6, 2007 decision, finding that the medical evidence was insufficient to establish causal relationship between appellant's job duties and her diagnosed condition.

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 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 employee, 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 supports that appellant had to bend while delivering mail through mail slots on May 7, 2007. However, appellant has not submitted sufficient medical evidence to establish that this employment activity caused or aggravated her low back condition.

In a May 14, 2007 treatment note, Dr. Short advised that appellant complained of sustaining a back injury from delivering mail on May 7, 2007. However, he did not opine that her lumbar strain and sciatica were the result of bending while delivering mail on that day. Rather, Dr. Short's treatment note described appellant's subjective complaint and her own belief as to the cause of her back condition. To the extent that his recounting of her history may be viewed as support for causal relationship, he did not provide any medical rationale or reasoning,

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).

³ *Id.*

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

explaining how bending at work on May 7, 2007 would have caused or aggravated her diagnosed lumbar strain and sciatica. Similarly, Dr. Short's May 21, 2007 progress note stated that the purpose of the visit was for him to recheck appellant's May 7, 2007 injury. However, he did not describe the specifics of the accepted incident and did not explain how bending while delivering mail would have caused or aggravated a diagnosed condition.⁵ Moreover, Dr. Short's subsequent reports only provided a diagnosis and work restrictions; the physician did not address causal relationship. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.⁶

Dr. Faller's May 8, 2007 emergency room report notes appellant's subjective complaint that her low back pain was caused by carrying her mailbag. However, she does not specifically address the cause of appellant's diagnosed condition. As noted, appellant must submit a physician's medical opinion supporting causal relationship. Dr. Faller's May 8, 2007 emergency room treatment note provided a diagnosis and work restrictions but did not address causal relation. Dr. Langdon's May 8, 2007 x-ray report did not address whether there was a causal relationship between appellant's diagnosed condition and her employment duties. Furthermore, the reports of appellant's physical therapists are of no probative value as physical therapists are not physicians as defined under the Act.⁷ As a result, they are not competent to provide a medical opinion.

Consequently, the medical evidence of record fails to establish that appellant's work duties on May 7, 2007 caused her diagnosed condition.

CONCLUSION

The Board finds that appellant did not meet her burden of proof in establishing that she sustained a traumatic injury on May 7, 2007 in the performance of duty.

⁵ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

⁶ *K.W.*, 59 ECAB ____ (Docket No. 07-1669, issued December 13, 2007).

⁷ See *Barbara Williams*, 40 ECAB 649 (1989). See 5 U.S.C. § 8101(2).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated August 1, 2008 is affirmed.

Issued: February 17, 2009
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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