

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

C.S., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Manassas, VA, Employer)

**Docket No. 09-281
Issued: July 21, 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
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On November 7, 2008 appellant filed a timely appeal from a July 28, 2008 merit decision of the Office of Workers' Compensation Programs denying 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 to establish that he sustained bilateral inguinal hernias in the performance of duty.

FACTUAL HISTORY

On March 28, 2008 appellant, a 56-year-old postal mail handler, filed an occupational disease claim (Form CA-2) for an inguinal hernia. He attributed his condition to the lifting and pulling tasks he performed in the performance of his federal employment. Appellant became aware of his condition and its relation to his federal employment on March 7, 2008. He was not precisely sure when the injury occurred but stated that it could have occurred between 1992 and

2008. Appellant reported that on March 6, 2008 he woke up to go to work when he experienced pain in his side. He consulted a physician who diagnosed the hernias.

In support of his claim, appellant submitted two illegible medical notes, both of which were dated March 7, 2008.

The employing establishment controverted appellant's claim on the grounds that he had not provided medical documentation supporting his claim.

Appellant submitted no additional evidence in support of his claim and by letter dated April 10, 2008, the Office notified him that the evidence submitted was insufficient to support his claim. The Office provided a list of questions as well as a description of the type of evidence he needed to submit.

Responding to the Office's letter, appellant submitted a March 31, 2008 medical report signed by Dr. John Williams, a Board-certified surgeon, who noted appellant's history that he experienced groin pain while lifting heavy objects at work. Dr. Williams diagnosed appellant with bilateral inguinal hernias, for which he recommended laparoscopic bilateral inguinal hernia repair with mesh.

Appellant also submitted a hand-written response to the Office's April 10, 2008 letter. He reported that he had been employed as a mail handler since 1992 and that his condition developed over time. Appellant asserted that he experienced ongoing symptoms of pain and discomfort but was unaware of its cause. He identified the continuous lifting of heavy bags and boxes as well as the continuous pushing of heavy equipment as employment factors contributing to his injury.

Appellant submitted no additional evidence in support of his claim and by decision dated July 28, 2008, the Office, while accepting that he was diagnosed with a hernia following a lifting event at work, denied his claim because the evidence of record did not demonstrate that the claimed medical condition was related to the established work-related events.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.¹

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

¹ See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

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.²

ANALYSIS

Appellant claimed that he sustained an inguinal hernia in the performance of duty and identified lifting heavy bags and boxes as well as pushing heavy equipment as factors of his employment that caused his bilateral inguinal hernias. It is his burden to submit rationalized medical evidence establishing that the identified factors of employment caused or aggravated a diagnosed medical condition. The Board finds that the evidence of record insufficient to accomplish this task as it lacks a rationalized medical opinion establishing that the identified employment factors caused or aggravated appellant's bilateral inguinal hernias.

The relevant medical evidence of record consists of a March 31, 2008 medical report signed by Dr. Williams. Although Dr. Williams diagnosed appellant with bilateral inguinal hernias, he proffered no opinion on the causal relationship between his hernia and the identified factors of his federal employment. The Board has held that medical reports lacking an opinion on causal relationship are of limited probative value.³ As Dr. Williams' March 31, 2008 medical report lacks an opinion on causal relationship, it is of limited probative value and insufficient to establish that appellant sustained bilateral inguinal hernias in the performance of duty.

An award of compensation may not be based on surmise, conjecture or speculation. Neither, the fact that appellant's claimed condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.⁴

As there is no other probative evidence of record, other than appellant's own statements,⁵ he has not met his burden of proof to establish that he sustained bilateral inguinal hernias in the performance of duty.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained bilateral inguinal hernias in the performance of duty

² *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

³ See *Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value). See also, *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

⁴ *D.I.*, 59 ECAB ___ (Docket No. 07-1534, issued November 6, 2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

⁵ *Edgar G. Maiscott*, 4 ECAB 558 (1952) (holding appellant's self-serving declarations do not, in the opinion of the Board, constitute evidence of a sufficiently substantial nature).

ORDER

IT IS HEREBY ORDERED THAT the July 28, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 21, 2009
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board