



emergency room on October 15 and December 4, 2007. She stated that she was required to remove mail from bins and on October 12, 2007 she felt a pull in her back as she lifted the mail.

In a note dated October 24, 2007, Dr. Dennis Treece, a family practitioner, diagnosed back pain and indicated that appellant should not engage in lifting over 10 pounds. A January 3, 2008 note diagnosed sciatica and lumbar radiculopathy. A magnetic resonance imaging scan of the lumbar spine was performed on January 8, 2008, revealing severe degenerative disc disease at L4-5 and L5-S1. A duty status report (Form CA-17) dated January 16, 2008 from a family practitioner provided a history of the October 12, 2007 incident.<sup>1</sup> The diagnosis due to injury was severe degenerative disc disease.

By decision dated February 5, 2008, the Office denied the claim for compensation. It found that the medical evidence was insufficient to establish an injury arising from the accepted incident.

Appellant requested a hearing before an Office hearing representative, which was held on July 14, 2008. At the hearing, appellant's representative asserted that she had a back spasm at work on April 25, 2008 and fell. In a report dated May 9, 2008, Dr. Abulhasan Sayed, a physiatrist, indicated that appellant was seen for chronic low back pain that started on October 12, 2007 when she picked up mail and felt a pop. Dr. Sayed provided results on examination and diagnosed chronic low back pain. Appellant also submitted physical therapy reports.

By decision dated September 30, 2008, an Office hearing representative affirmed the February 5, 2008 decision. She found that the medical evidence was insufficient to establish the claim as the physicians of record failed to provide a history of her employment or address causal relation.

### **LEGAL PRECEDENT**

The Federal Employees' Compensation Act provides for the payment of compensation for "the disability or death of an employee resulting from personal injury sustained while in the performance of duty."<sup>2</sup> The phrase "sustained while in the performance of duty" in the Act is regarded as the equivalent of the commonly found requisite in workers' compensation law of "arising out of and in the course of employment."<sup>3</sup> An employee seeking benefits under the Act has the burden of establishing that he or she sustained an injury while in the performance of duty.<sup>4</sup> 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

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<sup>1</sup> The signature is illegible.

<sup>2</sup> 5 U.S.C. § 8102(a).

<sup>3</sup> *Valerie C. Boward*, 50 ECAB 126 (1998).

<sup>4</sup> *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

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.<sup>5</sup>

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.<sup>6</sup>

### **ANALYSIS**

Although appellant filed a Form CA-2, which is intended for claims of injury occurring over more than one workday or shift,<sup>7</sup> she attributed her condition to an October 12, 2007 incident when she bent over to pick up mail. The Office accepted that the incident occurred as alleged. The issue is whether there is rationalized medical opinion evidence establishing a diagnosed condition causally related to the October 12, 2007 incident.<sup>8</sup>

The Board finds there is no rationalized medical evidence on the issue of causal relationship. The diagnoses from Dr. Treece included sciatica, lumbar radiculopathy and lumbar degenerative disc disease. He did not provide any narrative opinion with supporting medical rationale addressing causal relationship with the accepted incident. Similarly, Dr. Sayed did not provide an opinion on causal relationship. He diagnosed chronic low back pain. As noted, a rationalized opinion must be based on a complete and accurate factual background and must be supported by medical rationale. It is appellant's burden of proof. The Board finds that appellant did not meet her burden in this case based on deficiencies in the medical reports of record.

### **CONCLUSION**

The Board finds that appellant did not establish a back injury causally related to the October 12, 2007 incident.

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<sup>5</sup> See *John J. Carlone*, 41 ECAB 354, 357 (1989).

<sup>6</sup> *Jennifer Atkerson*, 55 ECAB 317, 319 (2004).

<sup>7</sup> See 20 C.F.R. § 10.5(q).

<sup>8</sup> It is not clear whether appellant filed a claim with respect to an April 25, 2008 incident. To the extent she is alleging a consequential injury from the October 12, 2007 incident, appellant would have to establish an employment injury, and then submit evidence establishing an injury on April 25, 2008 that resulted from the natural progression of the accepted employment injury. See *Bernitta L. Wright*, 53 ECAB 514 (2002).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated September 30 and February 5, 2008 are affirmed.

Issued: July 13, 2009  
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