

March 5, 2008 incident at work caused or contributed to a low back injury. The facts of the case as set forth in the Board's prior decision are incorporated herein by reference.

In a February 13, 2010 letter, counsel requested reconsideration before the Office and submitted a January 12, 2010 report from Dr. William N. Grant, Board-certified in internal medicine. Dr. Grant examined appellant on January 12, 2010 and obtained a history of injury that appellant was delivering mail and, when resting against his mail truck, slipped and fell hitting his low back on the truck bumper. Appellant reported an immediate onset of severe low back pain. Dr. Grant stated that, prior to March 5, 2008, appellant never had any prior low back pain and he was subsequently treated by Dr. Harris with medication and physical therapy. He advised that appellant complained of constant low back pain which became unbearable with weight bearing, bending, squatting, stooping or walking up or down inclines. Dr. Grant advised that appellant's pain and numbness were getting worse but that appellant was at maximum medical improvement as of that date. On examination of the lumbar spine, he found diminished normal curvature and tenderness to palpation. Dr. Grant listed findings on range of motion and noted positive straight leg raising at 15 degrees. He also advised that deep tendon reflexes were diminished. Dr. Grant stated: "It is my medical opinion that there is an absolute causal relationship between [appellant's] lower back pain and his fall on March 5, 2008. Prior to March 5, 2008, [he] never had any lower back pain and numbness."

In a March 29, 2010 decision, the Office denied modification of its prior decision denying appellant's claim. It found that the report of Dr. Grant provided an affirmative opinion on causal relationship which was weakened by the lack of rationale in support of the physician's stated conclusion. It was noted that appellant was not seen by Dr. Grant until two years following the accepted incident and it was not evident from the report that he had any access to appellant's medical records.

LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees' Compensation Act has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence.² A claimant must establish that he or she is an "employee of the United States" within the meaning of the Act;³ that he or she filed his or her claim within the applicable time limitation;⁴ that he or she sustained an injury in the performance of duty, as alleged;⁵ and that his or her disability for work, if any, is causally related to the employment injury.⁶

To determine whether an employee sustained a traumatic injury in the performance of duty, the consideration of fact of injury consists of two components: that the employee actually

² 5 U.S.C. § 8101 *et seq.* See *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55 (1968).

³ *M.H.*, 59 ECAB 461 (2008); *Emiliana de Guzman (Mother of Elpedio Mercado)*, 4 ECAB 357 (1951).

⁴ *R.C.*, 59 ECAB 427 (2008); *Kathryn A. O'Donnell*, 7 ECAB 227 (1954).

⁵ *S.B.*, 58 ECAB 398 (2007).

⁶ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143 (1989).

experienced the employment incident alleged to have occurred and that the employee submit medical evidence to establish that the incident caused a personal injury.⁷

The issue of whether a claimant's condition is related to an accepted work incident is a medical question that must be resolved by probative opinion by a physician.⁸ A medical report is of limited probative value on the issue of causal relationship if it contains a conclusion which is unsupported by adequate medical rationale.⁹

ANALYSIS

The Office accepted that appellant slipped while leaning against his postal vehicle and fell against the bumper on March 5, 2008. It denied his claim, finding that the medical evidence submitted in support of the claim was not sufficient to establish that he sustained a low back injury due to this incident.

The Board finds that the January 10, 2010 report of Dr. Grant is not sufficient to establish appellant's claim. Although Dr. Grant provided an accurate description of the manner of injury when appellant slipped and fell, he addressed causal relationship by noting that prior to March 5, 2008 appellant never had any low back pain or numbness. The Board has generally held that an opinion on causal relationship based solely on a temporal relationship is not sufficient to establish a claim.¹⁰ The mere assertion that appellant had no problems with his low back prior to the employment incident is insufficient to establish causal relation or aggravation by the employment factor. The fact that a condition manifests itself during a period of employment does not raise an inference of causal relationship.¹¹ Other than noting appellant's history of pain and numbness in the area of his low back, Dr. Grant did not provide a specific diagnosis of appellant's back condition.¹² He did not confirm or discuss the prior diagnosis of a lumbar contusion by Dr. Harris or lumbar strain by Dr. Soni. It is not readily apparent that Dr. Grant had any prior medical records available to him for review. He provided brief findings pertaining to range of motion on clinical examination but did not address whether any diagnostic studies were ever obtained to clarify the nature of appellant's complaints or to confirm radiculopathy into either lower extremity.

In assessing the weight of medical opinion, such factors as the opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion determine the reliability and probative value accorded on

⁷ See *David Apgar*, 57 ECAB 137 (2005); *Steven S. Saleh*, 55 ECAB 169 (2003).

⁸ See *William A. Archer*, 55 ECAB 674 (2004).

⁹ See *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

¹⁰ See *Louis R. Blair*, 54 ECAB 348, 350 (2003); *Thomas D. Petrylak*, 39 ECAB 276 (1987).

¹¹ *Steven R. Piper*, 39 ECAB 312 (1987).

¹² See *Robert Broome*, 55 ECAB 339 (2004).

review.¹³ The one-page report of Dr. Grant is deficient for the reasons noted. Dr. Grant first examined appellant some two years following the accepted incident and failed to provide a firm medical diagnosis or fully rationalized opinion on the issue of causal relation.¹⁴ The medical evidence submitted by appellant is not sufficient to establish his claim for compensation.

CONCLUSION

The Board finds that appellant has not established that the March 5, 2008 incident at work caused an injury to his low back.

ORDER

IT IS HEREBY ORDERED THAT the March 29, 2010 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: December 20, 2010
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

¹³ *Michael S. Mina*, 57 ECAB 379 (2006); *Gary R. Sieber*, 46 ECAB 215 (1994).

¹⁴ *See Eileen R. Kates*, 46 ECAB 573 (1995). Treatment by Dr. Grant in 2010 was not contemporaneous to the March 5, 2008 incident accepted in this case, thereby diminishing the probative value of his opinion.