

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

R.G., Appellant)	
)	
and)	Docket No. 10-84
)	Issued: July 14, 2010
)	
DEPARTMENT OF HOMELAND SECURITY,)	
TRANSPORTATION SECURITY)	
ADMINISTRATION, Baton Rouge, LA,)	
Employer)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 13, 2009 appellant filed a timely appeal from an August 4, 2009 merit decision of the Office of Workers' Compensation Programs. 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 has established a lumbar injury causally related to factors of her federal employment.

FACTUAL HISTORY

On June 16, 2008 appellant, then a 37-year-old security screener, filed an occupational disease claim (Form CA-2) alleging that she sustained an employment-related lumbar injury. She described her condition as bulging L4-5 and L5-S1 discs, with L5-S1 radiculopathy. Appellant indicated that she initially sustained an injury on March 23, 2006, had pain the

following day and requested a low back injury be “added to claim.”¹ She reported that she became aware of the injury on March 27, 2006.

In a statement dated October 31, 2008, appellant reiterated that she wanted a low back injury “added” to her claim. She discussed her prior claim and medical treatment. Appellant stated that her job as a screener was strenuous and repetitive, including lifting of bags. She described the March 23, 2006 incident and stated, “I know that my low-back injury is the result from the injury....”

In a report dated August 18, 2008, Dr. David Muldowney, an orthopedic surgeon, provided a history of a back injury on March 23, 2006 that “progressively worsened.” He listed the results on examination and diagnosed lumbar degenerative disc disease. In a report dated September 10, 2008, Dr. Daniel Hodges, a physiatrist, addressed findings on examination and diagnosed “on-the-job injury with multilevel cervical changes with progressive mechanical low back pain.”

In a February 10, 2009 decision, the Office denied the claim for compensation. It found the factual and medical evidence was insufficient to establish that appellant’s back condition was due to her employment as a security screener.

Appellant requested a telephonic hearing before an Office hearing representative, which was held on June 11, 2009. In an April 30, 2009 letter, she reported that she stopped work in April 2007 because her condition “was getting worse due to the lack of manpower on the job.” Appellant stated that she still performed her job duties with the exception of hand wandering. In a June 29, 2008 letter, the employer advised that, after the March 23, 2006 injury, appellant returned to light-duty work, stopped work on April 9, 2006, returned to work on May 25, 2006 and was off work from April 15, 2007 to June 1, 2008.

By decision dated August 4, 2009, an Office hearing representative affirmed the February 10, 2009 decision. He found that the medical evidence of record was not sufficient to establish that appellant’s lumbar degenerative disease was either due to the March 23, 2006 incident or to other factors of her federal employment.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees’ Compensation Act² has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as

¹ Appellant filed a traumatic injury claim on March 23, 2006 when she was pulling a bag through an x-ray machine. Under OWCP File No. xxxxxx741, the claim was accepted for cervical sprain/strain, and left shoulder and arm sprain/strain. By decision dated October 17, 2008, the Office denied claims for compensation commencing June 2008, finding the medical evidence did not establish a lumbar condition causally related to the March 23, 2006 injury. By decision dated May 20, 2009, an Office hearing representative affirmed the October 17, 2008 decision. In a June 24, 2010 decision, the Board affirmed the denial of appellant’s claim for a recurrence of disability commencing June 6, 2008.

² 5 U.S.C. §§ 8101-8193.

alleged and that any specific condition or disability claimed is causally related to the employment injury.³

To establish that an injury was sustained in the performance of duty, a claimant must submit: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁶ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁷

ANALYSIS

Appellant filed an occupational disease claim, which is a claim for an injury occurring over more than one workday or shift.⁸ Appellant noted a history of a prior lumbar injury on March 23, 2006. To the extent appellant sought expansion of her traumatic injury claim to include the diagnosed degenerative disease, the Office hearing representative properly noted that she could pursue the matter under that claim number.

To establish an occupational disease claim, appellant must submit a factual statement identifying the employment factors alleged to have contributed to her condition. She has not submitted a detailed factual statement in this regard. Appellant generally referred to a worsening condition, without specifically describing the nature, extent and duration of the job duties, she believes caused or aggravated her lumbar condition. Moreover, she must submit rationalized medical evidence that includes a complete factual and medical history, and a reasoned opinion on causal relationship between the diagnosed lumbar condition and the identified employment factors. The medical evidence does not include a rationalized medical opinion. Dr. Hodges referred generally only to a work injury without providing additional detail. He did not address how any work duties would cause or contribute to her degenerative lumbar disease.

³ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁴ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁵ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

⁸ 20 C.F.R. § 10.5(q) (2008).

Dr. Muldowney similarly made reference to the prior traumatic injury of March 2006. He did not clearly explain how appellant's work as a security screener would contribute to her lumbar disease.

The Board finds that appellant did not submit the necessary evidence to establish her claim. In the absence of a detailed factual statement regarding employment factors and medical evidence on causal relationship, the Office properly denied her occupational disease claim.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her lumbar degenerative disease is causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 4, 2009 is affirmed.

Issued: July 14, 2010
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board