United States Department of Labor
Employees' Compensation Appeals Board

C.R., Appellant	)	
and	)	**Docket No. 11-1476**
	)	**Issued: December 21, 2011**
DEPARTMENT OF HOMELAND SECURITY, CUSTOMS & BORDER PROTECTION, Tampa, FL, Employer	)	

Appearances:
Appellant, pro se
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 June 8, 2011 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs (OWCP) dated February 9, 2011. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 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 sustained a back injury in the performance of duty on September 14, 2010.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On September 15, 2010 appellant, a 53-year-old agriculture specialist, filed a claim for benefits, alleging that he injured his back while attempting to close a container door on September 14, 2010.

In a September 21, 2010 report, Dr. Mikel Anglin, Board-certified in internal medicine, stated that appellant had experienced back pain after lifting a barrel at work. He diagnosed a back strain and noted complaints of low back pain on the right not associated with tingling, numbness or weakness. Dr. Anglin opined that appellant could return to work with restrictions on repetitive twisting, bending and lifting more than 15 pounds.

Appellant submitted an September 21, 2010 Form CA-17 duty status report from Dr. Anglin which indicated that he sustained a back strain injury on September 14, 2010. Dr. Anglin checked a box advising that appellant's injury corresponded with his description of how the September 14, 2010 work incident occurred. He submitted progress reports dated September 28 to November 2, 2010 in which he reiterated his previously stated findings and conclusions.

By letter dated January 4, 2011, OWCP informed appellant that, while it had initially handled his claim administratively and authorized payment of a limited amount of medical expenses, it was reopening his claim because his medical bills had exceeded $1,500.00. It noted that the merits of the claim needed to be adjudicated and requested additional factual and medical evidence to determine whether he was eligible for compensation benefits. OWCP asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition, and an opinion as to whether his claimed condition was causally related to his federal employment. It requested that he submit the additional evidence within 30 days. Appellant did not respond.

By decision dated February 9, 2011, OWCP denied appellant's claim, finding that he failed to submit sufficient medical evidence in support of his claim that he sustained a back strain in the performance of duty on September 14, 2010.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] has the burden of establishing that the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained 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.[3] These are the essential elements of each and every

[2] 5 U.S.C. §§ 8101-8193.

[3] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

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.[5] 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.[6] The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 claimant.[7]

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.[8]

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.[9] Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

ANALYSIS

OWCP has accepted that appellant attempted to close a container door on September 14, 2010. The question of whether an employment incident caused a personal injury can only be established by probative medical evidence.[10] Appellant has not submitted sufficient, probative medical evidence to establish that the September 14, 2010 employment incident would have been competent to cause the claimed injury.

[4] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[5] *John J. Carlone*, 41 ECAB 354 (1989).

[6] *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

[7] *Id.*

[8] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

[9] *Id.*

[10] *John J. Carlone*, *supra* note 5.

Dr. Anglin submitted several reports in which he listed findings on examination and indicated that appellant had a back strain. These reports, however, did not relate the diagnoses to the September 14, 2010 incident at work. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.[11] Dr. Anglin advised in his September 21, 2010 report that appellant sustained a back strain and had complaints of lower back pain on the right not associated with tingling, numbness or weakness. He advised that appellant could return to work with restrictions on repetitive twisting, bending and lifting more than 15 pounds. However, Dr. Anglin's opinion is of limited probative value for the further reason that it is generalized in nature and equivocal in that he only noted summarily that appellant's condition was causally related to the September 14, 2010 work incident. It is unclear if he had an accurate history of the September 14, 2010 incident as he stated that appellant sustained his injury while lifting a barrel; this contradicted appellant's statement on the Form CA-1 that he injured his back while attempting to close a container door.[12]

Although Dr. Anglin presented a diagnosis of appellant's condition and stated generally that he experienced back pain on September 14, 2010, he did not adequately address how this condition and these findings were causally related to the September 14, 2010 work incident. The medical reports of record did not explain how medically appellant would have sustained a back injury because he attempted to close a container door on September 14, 2010. There is insufficient rationalized evidence in the record that his back strain was work related. Furthermore, the September 14, 2010 form report from Dr. Anglin which supports causal relationship with a check mark is insufficient to establish the claim, as the Board has held that without further explanation or rationale, a checked box is not sufficient to establish causation.[13] Therefore, appellant failed to provide a medical report from a physician that explains how the work incident of September 14, 2010 caused or contributed to the claimed back strain.

OWCP advised appellant of the evidence required to establish his claim; however, he failed to submit such evidence. Appellant did not provide a medical opinion which describes or explains the medical process through which the September 14, 2010 work accident would have caused the claimed injury. Accordingly, he did not establish that he sustained a back strain in the performance of duty. OWCP properly denied appellant's claim for compensation.

For the reasons stated above the Board finds that appellant did not meet his burden of proof to establish that he sustained a back strain in the performance of duty. Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

[11] *See Anna C. Leanza*, 48 ECAB 115 (1996).

[12] *See Geraldine H. Johnson*, 44 ECAB 745 (1993).

[13] *Debra S. King*, 44 ECAB 203 (1992); *Salvatore Dante Roscello*, 31 ECAB 247 (1979).

CONCLUSION

The Board finds that appellant has failed to establish that he sustained a back strain in the performance of duty on September 14, 2010.

ORDER

IT IS HEREBY ORDERED THAT the February 9, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 21, 2011
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