

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

D.L., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Baldwinsville, NY, Employer**

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**Docket No. 12-821
Issued: August 20, 2012**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On March 5, 2012 appellant filed a timely appeal from the Office of Workers' Compensation Programs' (OWCP) merit decision dated February 6, 2012 which denied her claim. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that she sustained a pulled muscle in her rib cage in the performance of duty.

FACTUAL HISTORY

On December 14, 2011 appellant, then a 42-year-old rural carrier, filed a traumatic injury claim, alleging that on December 13, 2011 while retrieving parcels from a hamper she injured her right rib cage. She stopped work on December 14, 2011.

¹ 5 U.S.C. §§ 8101-8193.

Appellant submitted a December 14, 2011 attending physician's report prepared by Dr. Philip Roy, a family practitioner, who noted findings of mid-back pain and diagnosed mid-back pain. She reported experiencing mid-back pain after lifting a box at work. Dr. Roy noted with a checkmark "yes" that appellant's condition was caused or aggravated by an employment activity. Also submitted was a December 14, 2011 duty status report from Dr. Roy who noted clinical findings of tenderness of the mid back on the right side. Dr. Roy noted appellant was disabled from work.

By letter dated January 5, 2012, OWCP advised appellant of the type of evidence needed to establish her claim. It particularly requested that she submit a comprehensive medical report from her treating physician that included a reasoned explanation as to how the specific work factors contributed to her claimed injury.

The employing establishment submitted a January 17, 2012 letter to appellant requesting that she submit any additional evidence in support of her claim to the employing establishment.

On February 6, 2012 OWCP denied appellant's claim on the grounds that the medical evidence did not demonstrate that the claimed medical condition was related to the established work-related events.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing 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 filed within the applicable time limitation 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 is causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.²

To determine whether an employee actually sustained an injury in the performance of duty, OWCP 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 actually experienced the employment incident which is alleged to have occurred.³ The second component of fact of injury is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁴

² *Gary J. Watling*, 52 ECAB 357 (2001).

³ *Michael E. Smith*, 50 ECAB 313 (1999).

⁴ *Allen C. Hundley*, 53 ECAB 551 (2002); *Earl David Seal*, 49 ECAB 152 (1997).

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.⁵ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁶

ANALYSIS

It is not disputed that appellant retrieved parcels from a hamper as alleged. However, she has not submitted sufficient medical evidence to establish that her right rib cage injury was causally related to specific employment factors or conditions. On January 5, 2012 OWCP advised appellant of the type of medical evidence needed to establish her claim. Appellant did not submit a rationalized medical report from a physician addressing how specific employment factors may have caused or aggravated her claimed conditions.

Appellant submitted a December 14, 2011 attending physician's report prepared by Dr. Roy who diagnosed mid-back pain. She reported experiencing back pain after lifting a box at work. Dr. Roy noted with a checkmark "yes" that appellant's condition was caused or aggravated by an employment activity. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.⁷ Also submitted was a December 14, 2011 duty status report from Dr. Roy who noted clinical findings of tenderness of the mid back on the right side. He noted appellant was disabled from work. However, Dr. Roy's report is insufficient to establish the claim as the physician did not provide a history of injury or specifically address whether appellant's employment activities had caused or aggravated a diagnosed medical condition.⁸ Appellant has not submitted a physician's report that explains why specific work activities on December 13, 2011 caused or aggravated a diagnosed medical condition.

For these reasons, OWCP properly found that appellant did not meet her burden of proof in establishing her claim. On appeal, appellant submitted additional medical evidence. However, the Board's jurisdiction is limited to the evidence that was before OWCP at the time it

⁵ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁶ *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

⁷ *D.D.*, 57 ECAB 734 (2006); *Sedi L. Graham*, 57 ECAB 494 (2006).

⁸ *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

issued its final decision; therefore, the Board is unable to review evidence submitted by appellant on appeal.⁹

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.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her claimed conditions were causally related to her employment.

ORDER

IT IS HEREBY ORDERED THAT the February 6, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 20, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

⁹ 5 U.S.C. § 501.2(c).