

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

J.S., Appellant)	
)	
and)	Docket No. 12-399
)	Issued: June 13, 2012
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Fresno, CA, Employer))))	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 14, 2011 appellant filed a timely appeal of a September 19, 2011 Office of Workers' Compensation Programs' (OWCP) merit decision denying his claim for benefits for an employment-related injury. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c)(1) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained a left inguinal hernia due to his federal employment.

On appeal appellant alleged that he submitted all necessary medical documents to verify his claim for a hernia operation on April 26, 2011 and requested leave buyback.²

¹ 5 U.S.C. § 8101 *et seq.*

² On appeal to the Board appellant submitted new evidence. As OWCP did not consider this evidence in reaching a final decision, the Board may not consider it for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On July 12, 2011 appellant, then a 61-year-old mail handler, filed an occupational disease claim alleging a left-sided hernia due to lifting heavy parcels and pushing equipment in the performance of duty. He submitted a consent for clinical treatment from the Department of Veterans Affairs diagnosing an inguinal hernia in appellant's left groin. In a letter dated July 25, 2011, OWCP requested additional factual and medical evidence.

In a note dated August 3, 2011, Dr. Vicente A. Santiago, a Board-certified internist, stated that he examined appellant on January 26, 2011 and diagnosed a left inguinal hernia. He advised that appellant underwent surgery on April 29, 2011.

By decision dated September 19, 2011, OWCP denied appellant's claim for left inguinal hernia on the grounds that he failed to submit sufficient medical opinion evidence to establish a causal relationship between his hernia condition and his federal employment.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.

The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.³

ANALYSIS

Appellant filed a claim for a left inguinal hernia and submitted an undated consent for treatment. He underwent surgical repair on April 29, 2011. Dr. Santiago completed a note dated August 3, 2011 and diagnosed left inguinal hernia on January 26, 2011 with surgery on April 29, 2011; but the physician did not explain how appellant's duties as a mail handler caused or contributed to the hernia for which appellant was treated. The Board finds that the medical evidence of record does not explain the causal relationship between appellant's diagnosed condition and his employment activities. Without medical evidence attributing appellant's inguinal hernia to his federal employment activities, appellant has not met his burden of proof to establish an occupational disease. As noted, he must provide a detailed medical report explaining how his hernia was due to lifting and pushing in the performance of duty and, if so, how these activities caused or contributed to this condition. As the medical evidence of record does not adequately address how appellant developed his hernia or whether this condition was

³ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

due to his employment, causal relationship is not established between the diagnosed inguinal hernia and appellant's employment duties. Due to this deficiency, he has not met his burden of proof to establish his claim.

On appeal appellant contends that he has submitted the necessary evidence and requested compensation benefits due to his hernia surgery. As noted, the Board finds that the medical evidence from Dr. Santiago does not establish that appellant's hernia developed as a result of his lifting and pushing employment duties. Therefore, appellant has not established entitlement to compensation benefits including leave buyback.

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 has not submitted the necessary medical evidence to establish that his hernia and resulting surgery developed as a result of his employment duties.

ORDER

IT IS HEREBY ORDERED THAT the September 19, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 13, 2012
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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

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