

FACTUAL HISTORY

On March 13, 2012 appellant, then a 39-year-old mail handler, filed a traumatic injury claim alleging head and neck pain when she attempted to remove a dolly on February 27, 2012. She stopped work on March 5, 2012 and returned to work on March 8, 2012.²

Dr. Jasjit Singh, an osteopath Board-certified in neurology, related in a March 14, 2012 report that appellant injured her neck and lower back when she pulled a dolly at work on February 27, 2012. On physical examination, he observed cervical and lumbosacral spasms and tenderness as well as diffuse left upper and lower extremity sensory loss. Dr. Singh diagnosed cervical radiculitis and lumbosacral radiculitis. In a March 28, 2012 report, he also observed diffuse right upper and lower extremity sensory loss on examination and opined that appellant was totally disabled.³

The April 7, 2010 cervical and lumbar magnetic resonance imaging (MRI) scans obtained by Dr. Harold M. Tice, a Board-certified diagnostic radiologist, noted disc herniations at C5-6 and C6-7, left C6-7 neural foraminal extension and disc bulges at C2-3, C3-4, C4-5 and L4-5.

OWCP informed appellant in a May 15, 2012 letter that additional evidence was needed to establish her claim. It gave her 30 days to submit a medical report from a qualified physician explaining how removing a dolly at work on February 27, 2012 resulted in a diagnosed condition.⁴

In an April 18, 2012 report, Dr. Singh examined appellant and observed cervical and lumbosacral spasms and tenderness and diffuse left upper extremity sensory loss. He noted that the April 7, 2010 MRI scan findings were consistent with her subjective complaints of neck and lower back pain. Dr. Singh diagnosed cervical radiculitis and lumbosacral disc displacement and opined that appellant remained disabled.⁵

By decision dated June 18, 2012, OWCP denied appellant's claim, finding the medical evidence insufficient to establish that the accepted February 27, 2012 employment incident caused or contributed to a cervical or lumbosacral condition.

LEGAL PRECEDENT

An employee seeking compensation under FECA has the burden of establishing the essential elements of his or her claim by the weight of reliable, probative and substantial

² Appellant later filed a Form CA-2a notice of recurrence.

³ The case record also contains Dr. Singh's March 28, 2012 duty status report and note, which incorporated his earlier findings and diagnoses.

⁴ OWCP noted that appellant's claim was originally received as a simple, uncontroverted case resulting in minimal or no lost time from work and payment was approved for limited medical expenses without formal adjudication.

⁵ Dr. Singh's April 18, 2012 prescription note also specified diagnoses of cervical intervertebral disc displacement, brachial neuritis and lumbosacral neuritis.

evidence,⁶ including that he or she is an “employee” within the meaning of FECA and that he or she filed her claim within the applicable time limitation.⁷ The employee must also establish that he or she sustained an injury in the performance of duty as alleged and that him or her disability for work, if any, was causally related to the employment injury.⁸

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.⁹

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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.¹⁰

ANALYSIS

The case record supports that appellant attempted to remove a dolly on February 27, 2012. The Board finds that she did not establish her traumatic injury claim because the medical evidence did not sufficiently demonstrate that a cervical or lumbosacral condition was causally related to the accepted employment incident.¹¹

In a March 14, 2012 report, Dr. Singh stated that appellant injured her neck and lower back when she pulled a dolly at work on February 27, 2012. Following a physical examination, he diagnosed cervical and lumbosacral radiculitis. Subsequent reports for the period March 28 to April 18, 2012 reiterated these findings and added diagnoses of cervical disc displacement, brachial neuritis, lumbosacral disc displacement and lumbosacral neuritis. Dr. Singh, however, did not provide an opinion addressing causal relationship. Rather, he appeared to be merely communicating appellant’s belief on the matter.¹² Assuming that this actually represented his

⁶ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

⁷ *R.C.*, 59 ECAB 427 (2008).

⁸ *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁹ *T.H.*, 59 ECAB 388 (2008).

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹¹ The Board notes that appellant initially filed for a head and neck condition. However, the case record indicates that she amplified and expanded her claim to include a lumbar injury. See *Wilfred M. Hamilton*, 41 ECAB 524 (1990).

¹² See *P.K.*, Docket No. 08-2551 (issued June 2, 2009) (an award of compensation may not be based on a claimant’s belief of causal relationship).

opinion on causal relationship, Dr. Singh did not adequately explain how removing a dolly on February 27, 2012 caused or contributed to appellant's cervical or lumbosacral condition.¹³

Dr. Tice's April 7, 2010 cervical and lumbar MRI scan reports were of diminished probative value on the issue of causal relationship because none addressed whether appellant's diagnosed condition resulted from her federal employment.¹⁴ In the absence of rationalized medical opinion evidence, appellant failed to meet her burden of proof.

Appellant submitted new evidence after issuance of the June 18, 2012 decision. The Board, however, lacks jurisdiction to review evidence for the first time on appeal.¹⁵ Appellant may submit new evidence or argument as part of a formal 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 establish that she sustained a traumatic injury in the performance of duty on February 27, 2012.

¹³ *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994).

¹⁴ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹⁵ 20 C.F.R. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the June 18, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 8, 2013
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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