

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

B.L., Appellant)	
)	
and)	Docket No. 14-169
)	Issued: April 22, 2014
DEPARTMENT OF THE ARMY,)	
INSTALLATION MANAGEMENT)	
COMMAND, FORT McCOY, WI, Employer)	
)	

<i>Appearances:</i>	<i>Case Submitted on the Record</i>
<i>Alan J. Shapiro, Esq., for the appellant</i>	
<i>Office of Solicitor, for the Director</i>	

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 30, 2013 appellant, through his attorney, filed a timely appeal from a September 9, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant has met his burden of proof in establishing that he sustained a traumatic injury on November 16, 2012 in the performance of duty.

FACTUAL HISTORY

On November 16, 2012 appellant, then a 51-year-old engineering equipment operator, filed a traumatic injury claim alleging that he sustained a left back strain attempting to lift the

¹ 5 U.S.C. § 8101 *et seq.*

loading ramp of a trailer on that date. Dr. Jessica Stefanski-Williams, an osteopath, completed a physician's status report form and diagnosed back strain on November 16, 2013. She indicated with a checkmark "yes" that appellant's condition was work related. Dr. Stefanski-Williams examined him on November 21, 2012 and indicated that he could return to work.

Dr. Jerry Davis, a Board-certified neurosurgeon, examined appellant on November 29, 2012 and noted his history of disc herniation requiring surgery in 2010. He stated on November 16, 2012 that appellant had an injury at work lifting a ramp on a trailer. Dr. Davis noted antalgic gait, weakness of the left foot and pain to palpation of the spine. He diagnosed lumbar radiculopathy. Appellant underwent a magnetic resonance imaging (MRI) scan on December 11, 2012 which demonstrated a small disc protrusion at L5-S1.

In a letter dated January 22, 2013, OWCP informed appellant that, due to his multiple low back claims, he must provide medical evidence with a clear history of his prior and current back conditions. It allowed 30 days for a response.

By decision dated February 25, 2013, OWCP denied appellant's claim on the grounds that he failed to submit sufficient medical opinion evidence to establish a causal relationship between his current condition and his accepted employment incident.

Counsel requested an oral hearing before an OWCP hearing representative on March 7, 2013. Dr. Stefanski-Williams submitted notes dated November 23, 2012 stating that appellant reinjured his back on November 16, 2012 picking up a ramp. Appellant reported instant pain in his low back. He reported that since his discectomy he continued to have radiating pain down his leg and increasing difficulty with walking and placing pressure on his left leg. Dr. Stefanski-Williams stated, "At this time, I found that this current injury is directly related to [appellant's] place of employment and his job duties therein." On April 3, 2013 Dr. Davis stated that appellant's MRI scan showed recurrent disc herniation at L5-S1 and opined that his employment caused this condition.

Appellant testified at the oral hearing on June 11, 2013 and described the employment incident. He noted that he first injured his back in 2010, but that OWCP did not accept this claim. Appellant has a third claim which was accepted for recurrent left disc herniation as well as sprain. He returned to regular duty after this accepted claim. Appellant filed two additional claims which were denied. These were for injuries on June 17, 2011 when he was picking up trash at home and on February 7, 2012 when he stepped in a hole at work.

By decision dated September 9, 2013, an OWCP hearing representative affirmed OWCP's February 25, 2013 decision finding that appellant failed to submit the necessary medical opinion evidence to establish a causal relationship between his diagnosed condition and his accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence,

² *Id.*

including the fact that the individual is an “employee of the United States” within the meaning of FECA and 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 or specific condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

OWCP defines a traumatic injury as, “[A] condition of the body caused by a specific event or incident or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected.”⁵ 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.⁶ Second, the employee must submit sufficient evidence, generally only in the form a medical evidence, to establish that the employment incident caused a personal injury.⁷

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.⁸ Medical rationale includes a physician’s detailed opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, must be one of reasonable medical certainty and must be supported by medical reasoning explaining the nature of the relationship between the diagnosed condition and specific employment activity or factors identified by the claimant.⁹

ANALYSIS

There is no factual dispute relative to the fact that appellant lifted a trailer ramp on November 16, 2012 and experienced back pain for which he sought medical attention. However, the Board finds that the medical evidence in the record is not sufficiently detailed and well reasoned to establish that he sustained a back injury as a result of the November 16, 2012 employment incident.

³ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

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

⁵ 20 C.F.R. § 10.5(ee).

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *J.Z.*, 58 ECAB 529 (2007).

⁸ *T.F.*, 58 ECAB 128 (2006).

⁹ *A.D.*, 58 ECAB 149 (2006).

In support of his claim, appellant submitted notes from Dr. Stefanski-Williams who diagnosed back strain on November 16, 2013. Dr. Stefanski-Williams indicated with a checkmark “yes” that his condition was work related. 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 work is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.¹⁰ On November 23, 2012 Dr. Stefanski-Williams stated, “At this time, I found that this current injury is directly related to [appellant’s] place of employment and his job duties therein.” While she has consistently opined that appellant’s current back condition is related to his employment incident, she has not provided a detailed history including his prior back injuries and has not provided any medical rationale explaining how the employment incident resulted in his current back condition. As Dr. Stefanski-Williams did not provide any reasoning in support of her opinions, she has not submitted sufficient medical opinion evidence to meet appellant’s burden of proof.

Dr. Davis submitted a report dated April 3, 2013, which reference to his previous notes regarding appellant’s disc herniation and his current condition and employment incident. He stated that appellant’s MRI scan showed recurrent disc herniation at L5-S1 and opined that his employment caused this condition. Dr. Davis also failed to provide any medical reasoning explaining how and why appellant’s lifting incident on November 16, 2012 resulted in the recurrent disc herniation at L5-S1. Without detailed medical rationale explaining the causal relationship between appellant’s employment incident and his diagnosed condition, this report is insufficient to meet his burden of proof.

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 a causal relationship between his November 16, 2012 employment-related lifting incident and his diagnosed condition of recurrent herniated disc.

¹⁰ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

ORDER

IT IS HEREBY ORDERED THAT September 9, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 22, 2014
Washington, DC

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

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

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