

prepare all classes of mail for dispatch, transport equipment, separate classes of mail, and push and pull equipment to the loading dock for dispatch. Appellant stopped work on June 7, 2012.

By letter dated July 16, 2012, OWCP advised appellant of the type of evidence needed to establish her claim.

Several coworker statements were submitted. They advised that appellant was instructed not to help craft workers do dispatch work unless it was an extreme emergency.

In a June 21, 2012 disability status report, Dr. Ellen Berne, Board-certified in internal medicine, advised that appellant had a history of rheumatoid arthritis. She noted that she had been experiencing neck and back pain due to being asked to do more physical labor. Dr. Berne advised that appellant should be off work indefinitely.

In a July 30, 2012 statement the acting station manager at the employing establishment advised that on June 6, 2012 and several other occasions he instructed appellant not to touch the dispatch. He stated that she choose to perform dispatch work on several occasions because she felt badly that the clerks had to do so much. The acting station manager alleged that on June 6, 2012 appellant was observed trying to pull a bulk mail container by the locking handle, and not the regular handle, by two other employees who stopped her immediately. He noted that she called the next morning to inform him that she was hurt.

On August 2, 2012 OWCP requested that appellant respond to the acting station manager's July 30, 2012 statement.

Appellant, in an August 20, 2012 statement, disputed the claim that she was instructed not to perform craft duties. She alleged that each of those who provided witness statements specifically performed and instructed her to perform craft duties and fraudulently concealed historically designated craft work hours. Appellant claimed that on June 6, 2012 her work facility was being audited to observe the work and performance of sales and services associates (SSA) and that she was asked by several SSAs to withhold her usual assistance. She noted that later that day she discovered an accumulation of mail not prepared for dispatch. Appellant contended that the SSAs on duty were needed at the window so she had no choice but to perform the dispatch duties. She attributed her injury to a lack of SSA staffing necessary to meet all of the determined deadlines and a lack of the necessary training to perform SSA duties in emergency situations, namely training to properly maneuver equipment. Appellant noted that the next day she called the acting station manager to inform him that she was injured.

Several progress reports were submitted. In a June 8, 2012 report, Dr. Michael Bergal, Board-certified in family medicine and an associate of Dr. Berne, assessed osteoporosis, neck, and back pain. In a June 15, 2012 report, he advised that appellant was experiencing neck spasm and back pain. In a June 21, 2012 report, Dr. Gail Fisher, Board-certified in internal medicine and rheumatology, assessed rheumatoid arthritis. In a July 30, 2012 report, she advised that she was following up with appellant regarding an injury to her back.

By decision dated August 23, 2012, OWCP denied appellant's claim as the evidence of record was insufficient to establish that a condition was diagnosed in connection with the work-related incident.

On July 29, 2013 appellant, through counsel, requested reconsideration. Dr. Bergal, in a June 8, 2012 report, advised that she presented with low back pain after an increased amount of physical work in her job. He noted that appellant was upset about having to change positions at work and that two or three days earlier she developed lower back pain and left-sided neck pain after increased physical work at her job. On examination Dr. Bergal noted minor tenderness in the paraspinal muscle group on the left side, paraspinal muscle tenderness both at the right cervical and left lumbar paraspinal muscle groups, and minimal restriction to motion of the cervical and the lumbar spine. In a June 11, 2012 report, Dr. Amitesh Prasad, a Board-certified diagnostic radiologist, advised that a cervical spine x-ray revealed degenerative changes, no abnormal translation of the lumbar spine, endplate changes of the cervical spine with no abnormal translation on flexion and extension images, and extensive facet arthrosis both at the lumbar and cervical spine.

On June 21, 2012 Dr. Fisher advised that appellant was forced to push a heavy cart on June 6, 2012 and that the following day she was unable to move. On examination she noted difficult straight leg raise due to low back pain and limited range of motion in the cervical, dorsal, and lumbar spine. Dr. Fisher assessed rheumatoid arthritis, osteoporosis, and work-related injury to the neck, shoulder, hands, and low back. She noted that appellant was hardly able to get out of bed and that she was being forced to do work that was not a part of her job description. In a July 30, 2012 report, Dr. Fisher advised that appellant had a work-related injury on June 6, 2012 when she was forced to push and distribute the contents of a cart weighing 800 to 1,000 pounds. On examination, cervical spine range of motion was limited by pain on rotation and lateral flexion. Both shoulders had limited abduction. Dr. Fisher assessed rheumatoid arthritis, osteoporosis, and work-related injury to the neck, shoulders, hands, and low back. She opined that appellant was not likely able to return to her current job. Dr. Fisher noted that although appellant's job description did not list physically stressful activities, she was sometimes required to push heavy carts and process large amounts of mail.

Dr. Berne, in an August 17, 2012 report, advised that appellant related that on June 6, 2012 the employing establishment was understaffed and as a result she was told to lift multiple packages and gates which caused back pain. She advised that appellant previously had a desk job at the employing establishment, but after returning from eye surgery she was given another position which required her to drive and do more manual work. Dr. Berne noted that appellant now had pain in her lower back, thoracic spine, and neck. She noted that appellant wanted her old job back and that since being displaced she had become very depressed.

In a December 6, 2012 report, Dr. Fisher advised of an unrelated left-sided femoral neck fracture in August 2012. She reiterated the history provided in her earlier reports. On examination Dr. Fisher noted full range of motion, no tenderness, swelling, or deformity. She advised in a March 4, 2013 report, that appellant decided to retire from the employing establishment instead of pursuing litigation regarding the loss of her job. Dr. Fisher assessed cervicgia and back injury, both attributable to the June 6, 2012 work incident. She noted that appellant had some relief from her back and neck pain with trigger point injections.

In a May 3, 2013 report, Dr. Berne advised that appellant sustained a back injury at work as a result of moving mail carts weighing 800 to 1,000 pounds to distribute mail. She noted that appellant's back and neck pain started at that time and was attributed to the work tasks.

Dr. Berne advised that appellant frequently complained of the emotional stress that she was under at the employing establishment which caused her to unintentionally lose 25 pounds. She commented that someone with osteoporosis and rheumatoid arthritis was at high injury risk from physical labor. Dr. Berne opined that the demands of a very physical job exacerbated her arthritis and anxiety making it impossible for her to continue being productive in that position. She noted that it would be difficult for appellant to perform a job demanding physical labor and that it also might be difficult for her to return to a desk job due to persistent chronic low back pain.

OWCP, in an October 31, 2013 decision, affirmed the denial of appellant's claim because the medical evidence did not establish that the diagnosed conditions were causally related to the June 6, 2012 work incident.

On September 11, 2014 appellant again requested reconsideration. In a December 2, 2013 report, Dr. Fisher advised that appellant had a history of rheumatoid arthritis and osteoporosis. She noted that appellant related that she had a work-related neck, shoulder, and back injury that was a result of pushing a heavy mail cart. Dr. Fisher advised that it was well known that physical trauma could exacerbate arthritis and opined that this trauma, which was performed on more than one occasion, acutely, and cumulatively resulted in a flare-up of rheumatoid arthritis, neck, and back sprain. She wrote that she was quite amazed that the validity of her and Dr. Berne's statements was being questioned given their training, education, and experience.

By decision dated December 17, 2014, OWCP affirmed the denial of appellant's claim.

On appeal, counsel argues that appellant met her burden in establishing causal relationship, citing cases where injuries were found to be causally related to pulling bulk mail containers. He also argues in the alternative that OWCP could have used its discretion to convert her claim to an occupational disease claim if they deemed necessary.

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 evidence,² including that he or she is an "employee" within the meaning of FECA and that he or she filed his or her claim within the applicable time limitation.³ The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.⁴

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

² *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

³ *R.C.*, 59 ECAB 427 (2008).

⁴ *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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.⁵

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.⁶

ANALYSIS

There is no dispute that on June 6, 2012 the alleged incident with the bulk mail container occurred. Therefore, the Board finds that the first component of fact of injury is established. However, the Board finds that medical evidence is insufficient to establish that the employment incident on June 6, 2012 caused or aggravated appellant's diagnosed conditions.

In her December 2, 2013 report, Dr. Fisher advised that appellant had a history of rheumatoid arthritis and osteoporosis and that she had a work-related neck, shoulder, and back injury after she pushed a heavy mail cart. She advised that it was well known that physical trauma could exacerbate arthritis and opined that this trauma, which was performed on more than one occasion, acutely and cumulatively resulted in a flare-up of rheumatoid arthritis, neck, and back sprain. Although Dr. Fisher noted that it was well known that physical trauma can exacerbate arthritis, she does not specifically provide medical rationale to explain how pushing and pulling the bulk mail container aggravated appellant's arthritis. The Board has long held that medical opinions not containing rationale on causal relation are of diminished probative value and are generally insufficient to meet appellant's burden of proof.⁷ Other reports by Dr. Fisher are also insufficient to discharge appellant's burden of proof. In her June 21, 2012 report, she advised that appellant was forced to push a heavy cart on June 6, 2012 and was unable to move the following day. In her July 30, 2012 report, Dr. Fisher advised that appellant sustained a work-related injury when she was forced to push and distribute the contents of a cart weighing 800 to 1,000 pounds. Lastly, in her March 4, 2013 report, she assessed cervicgia and back injury attributable to the June 6, 2012 work incident. These reports also fail to provide sufficient medical rationale as they do not explain how the work-related incident caused or aggravated appellant's diagnosed conditions.⁸

On May 3, 2013 Dr. Berne reported that appellant sustained a back injury at work as a result of moving large heavily loaded mail carts weighing 800 to 1,000 pounds to distribute mail. She noted that appellant's back and neck pain started at that time and was attributed to the tasks she was asked to do. Dr. Berne noted that someone with osteoporosis and rheumatoid arthritis is

⁵ *T.H.*, 59 ECAB 388 (2008).

⁶ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *Carolyn F. Allen*, 47 ECAB 240 (1995).

⁸ *Id.*

at high risk for injury from physical labor. She opined that the demands of a very physical job exacerbated appellant's arthritis. However Dr. Berne failed to provide medical rationale to explain how this exacerbation occurred. The Board has found that the mere fact that a condition manifests itself or is worsened during an employment period does not raise an inference of causal relationship between the two.⁹ In her June 21, 2012 report, Dr. Berne advised that appellant had a history of rheumatoid arthritis and noted that she had been experiencing neck and back pain due to more physical labor at work. Although she attributed appellant's condition to "more physical labor," she failed to specify the particular incident alleged to have caused the injury which was pushing and pulling the bulk mail container.

In his June 8, 2012 report, Dr. Bergal advised that appellant was upset about having to change positions at the employing establishment and that the two or three days prior she developed lower back pain and left-sided neck pain after increased physical work at her job. Although he attributed her condition to increased physical work, he does not address the specific incident of pulling the bulk mail container or otherwise explain how a particular work activity on June 6, 2012 caused or aggravated a diagnosed condition.

Diagnostic and disability status reports were submitted. However, they are insufficient to discharge appellant's burden of proof as they do not offer an opinion on causal relationship.¹⁰ There is no other medical evidence of record addressing how the June 6, 2012 work incident caused or contributed to a diagnosed medical condition.

Consequently, appellant has submitted insufficient medical evidence to establish her claim. As noted, causal relationship is a medical question that must be established by probative medical opinion from a physician.¹¹ The physician must accurately describe appellant's work duties and medically explain the pathophysiological process by which these duties would have caused or aggravated her condition.¹² The need for medical reasoning or rationale is particularly important given the fact that appellant has preexisting rheumatoid arthritis and osteoporosis.

On appeal, counsel argues that appellant has meet her burden in establishing causal relationship, citing cases where pulling a bulk mail container was the mechanism of injury. He also argues, in the alternative that, OWCP could have used its discretion to convert her claim to an occupational disease claim if they deemed necessary. As noted above, the medical evidence does not establish that appellant's diagnosed conditions are causally related to the accepted June 6, 2012 work incident. Furthermore, both traumatic and occupational disease claims require medical reports from appellant's treating physician providing sufficient medical rationale explaining the reasons why a diagnosed condition is caused or aggravated by particular

⁹ *Patricia Bolleter*, 40 ECAB 373 (1988).

¹⁰ *Id.*

¹¹ *See supra* note 6.

¹² *Solomon Polen*, 51 ECAB 341 (2000) (rationalized medical evidence must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician). *See also S.T.*, Docket No. 11-237 (issued September 9, 2011).

employment duties. In this case, appellant has not met her burden of proof to establish an employment-related traumatic injury.

Appellant may submit new evidence or argument as part of 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 establish that she sustained a traumatic injury in the performance of duty on June 6, 2012.

ORDER

IT IS HEREBY ORDERED THAT December 17, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 4, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board