

FACTUAL HISTORY

On January 27, 2015 appellant, then a 53-year-old biomedical equipment support specialist, filed an occupational disease claim (Form CA-2) alleging that he developed lower back injuries as a result of repetitively lifting objects, bending over to lift objects, and overhead lifting at work. He first became aware of his condition on February 17, 2014 and realized that it resulted from his employment on November 12, 2014.³ The record does not indicate whether appellant stopped work.

In a letter dated January 30, 2015, OWCP informed appellant that no evidence was received to establish his claim. It requested that he provide a detailed description of how the alleged injury occurred and respond to specific questions in order to substantiate the factual elements of his claim. OWCP also advised appellant to submit a detailed report from his treating physician which included a history of how the claimed injury occurred, a medical diagnosis, and an opinion on how the condition was causally related to the alleged injury.

OWCP issued a similar letter dated January 30, 2015 to the employing establishment requesting that a knowledgeable supervisor comment on the accuracy of appellant's statements and clarify the physical requirements of appellant's job.

The employing establishment provided a position description for a biomedical equipment support specialist. The physical demands of the job included long periods of standing, recurring bending, crouching, stretching, climbing, and lifting of light to moderately heavy items weighing less than 50 pounds.

In a February 19, 2015 statement, James M. Mazurek, appellant's supervisor, explained that he was appellant's supervisor but was remote to the location. He confirmed that appellant's description about bending, lifting, and doing overhead work was accurate. Mr. Mazurek explained that in December 2014 appellant informed him that he was having back issues while doing his job and that he thought the pain was a continuation of a February 7, 2014 injury he sustained when he installed a television on a ceiling mounted pole. He advised appellant not to lift anything at work and to go to the doctor. Mr. Mazurek stated that appellant called him after several doctor appointments to inform him that the continued pain may be due to the previous February 2014 injury. He pointed out that appellant's job position required recurring lifting of light to moderately heavy items. Mr. Mazurek noted that the television weighed 11 pounds and pointed out that appellant installed approximately 100 television sets over the last four years. He further related that appellant installed many different pieces of medical equipment and repaired items overhead, which required lifting and bending.

In a decision dated March 9, 2015, OWCP denied appellant's claim finding insufficient evidence to establish fact of injury as he had not established the factual component, *i.e.*, that "the injury and/or event(s) occurred."

³ The record reveals that appellant has a previously accepted occupational disease claim (File No. xxxxxx353) and accepted traumatic injury claims *i.e.*, File No. xxxxxx671 on December 14, 2007 and File No. xxxxxx192 on February 14, 2014. The exact nature of these claims is not specified in this record.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence⁴ including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.⁵ In an occupational disease claim, appellant's burden requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁷ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁸

ANALYSIS

Appellant alleged that he sustained a lower back injury as a result of his employment as a biomedical equipment support specialist, which required repetitively lifting objects, bending over to lift objects, and overhead lifting at work. OWCP denied his claim finding that he did not establish the alleged employment factors. The Board finds that the evidence submitted is sufficient to establish that appellant's duties as a biomedical equipment support specialist involved repetitively lifting objects at work.

OWCP determined that appellant did not establish fact of injury because he did not provide information that was sufficient to establish his work factors nor did he respond to the questionnaire to establish a factual basis for his claim. The Board finds, however, that the record establishes that appellant's duties involved repetitively lifting objects, including overhead lifting, at work, while installing medical equipment. A position description listed the physical demands of appellant's job as including long periods of standing, recurring bending, crouching, stretching, climbing, and lifting light to moderately heavy items. As well, Mr. Mazurek, appellant's supervisor, reported in a February 19, 2015 statement that appellant correctly described his job as including lifting, bending, and doing overhead work. As an example of appellant's work duties,

⁴ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁵ *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁷ *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

⁸ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

he related that appellant installed over 100 television sets over the past four years. Appellant has not provided any inconsistent statements regarding his work duties as to cast serious doubt on his version of his work duties. Thus, under the circumstances of this case, the Board finds that appellant has established factors of his employment.

The Board further finds, however, that appellant did not submit any medical evidence to establish that he sustained a back injury causally related to factors of his employment. The record does not contain any medical evidence from a physician which included a history of how the claimed injury occurred, a diagnosis, and an opinion on how the condition was causally related to the alleged injury. The Board finds, therefore, that appellant has not met his burden of proof to establish that he sustained a back injury as a result of factors of his employment.

On appeal, appellant stated that he filled out an occupational disease form and was unsure about what other evidence was needed in order for OWCP to accept his claim. As previously noted, an employee seeking benefits under FECA has the burden of proof to establish that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.⁹ Because appellant has not submitted any medical evidence to establish that he sustained a back injury as a result of his employment, the Board finds that he has failed to establish his occupational disease claim.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 and 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained a lower back injury causally related to factors of his employment.

⁹ *Supra* note 5.

ORDER

IT IS HEREBY ORDERED THAT the March 9, 2015 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: November 2, 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