United States Department of Labor
Employees' Compensation Appeals Board

R.A., Appellant	)	
and	)	**Docket No. 15-1357**
	)	**Issued: October 23, 2015**
U.S. POSTAL SERVICE, POST OFFICE, Orlando, FL, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 1, 2015 appellant filed a timely appeal from a March 26, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant met his burden of proof to establish a traumatic injury in the performance of duty on January 5, 2015.

FACTUAL HISTORY

On January 5, 2015 appellant, then a 64-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 5, 2015, he sustained a lower back injury when bending down to pick up a letter. He stopped work on January 5, 2015.

[1] 5 U.S.C. § 8101 *et seq.*

In a January 5, 2015 state workers' compensation form, Dr. John Dao, an osteopath specializing in family medicine, reported that appellant was injured on the same date. He diagnosed lumbago and checked a box to report that the condition was work related. Also submitted was a January 5, 2015 authorization for examination and attending physician's report (Form CA-16). Dr. Dao provided work restrictions and a diagnosis of lumbago.

In a January 8, 2014 letter, the employing establishment confirmed that appellant reported being injured while picking up a letter. However, it controverted the claim contending that the injury was an aggravation of a nonwork-related preexisting lower back condition caused by bowling.

On January 16, 2015 OWCP informed appellant that the evidence of record was insufficient to support his claim. It advised that he provide a medical report containing a physician's opinion, supported by a medical explanation as to how work factors caused or aggravated a diagnosed condition.

Appellant provided a January 5, 2015 medical report from Dr. Dao who noted that appellant had a low back injury that day after bending. Dr. Dao noted appellant's history of low back problems from bowling two years earlier. A physical examination was performed revealing lumbar tenderness. He diagnosed lumbago, provided work restrictions, and ordered diagnostic imaging.

On January 14, 2015 Dr. Jose Pizarro, a Board-certified diagnostic radiologist and neuroradiologist, administered a magnetic resonance imaging (MRI) scan of appellant's lumbar spine. He noted that appellant presented from a work injury on January 5, 2015. The MRI scan revealed a chronic compression fracture at L1 and annular tears at L4-5 and L5-S1 with disc bulging and mild spinal stenosis at both levels.

Dr. Dao saw appellant for a follow-up examination on January 19, 2015. He related that appellant sustained a lower back injury from bending on January 5, 2015. Physical examination revealed a nontender back. Dr. Dao diagnosed lumbago and provided work restrictions. On a state workers' compensation form dated January 19, 2015, he noted that appellant was injured on January 5, 2015, diagnosed lumbago, and checked a box indicating that the condition was work related. Dr. Dao advised that appellant should follow-up with an orthopedic surgeon.

A January 26, 2015 medical report establishes that appellant was seen by Dr. Greg Munson, a Board-certified orthopedic surgeon. Dr. Munson related that appellant injured his back at work on January 5, 2015. Specifically, he noted that the injury occurred when appellant "bent over to pick up a ladder." Dr. Munson also noted appellant's 2012 lower back injury from bowling. Examination revealed full and supple lumbar motion. Nerve root tension signs were negative. Dr. Munson reviewed appellant's MRI scan and opined that it showed degenerative changes, but not an annular tear. He advised that appellant could work within restrictions. In a January 26, 2015 duty status report, Dr. Munson provided work restrictions and a diagnosis of lumbar strain. Appellant also provided evidence from a physical therapist.

Appellant provided a written statement dated January 29, 2015 reporting that he injured his back on January 5, 2015. He further conveyed that he had experienced an "off-the-job back injury in May of 2012 when I twisted my back by throwing a bowling ball."

By decision dated February 23, 2015, OWCP denied appellant's claim finding the evidence of record insufficient to establish that the employment incident occurred as alleged. It noted that Dr. Munson noted that appellant was injured while picking up a ladder, whereas he attributed his claimed injury to reaching for a letter.

Appellant continued to submit evidence. A February 10, 2015 addendum to Dr. Munson's January 26, 2015 medical report stated that January 26, 2015 x-rays revealed distinct pedicles and distinct psoas shadows of the lumbar spine. Dr. Munson observed some degree of osteopenia. Lateral lumber spine films showed some superior endplate indentation of L1.

Dr. Munson acknowledged, in a February 25, 2015 report, a typographical error in his January 26, 2015 report and confirmed that appellant was injured while picking up a letter. He also maintained that appellant had degenerative process in his spine. Dr. Munson opined that appellant suffered an "exacerbation of inflammation related to degenerative disc from his work-related injury bending over to pick up a letter." In a February 25, 2015 duty status report he diagnosed lumbar strain and cleared appellant for full duty.

On March 9, 2015 appellant filed a request for reconsideration. In an accompanying letter, he contended that reports completed by Dr. Munson provided a physician's opinion on the issue of causal relationship. Appellant also submitted an altered version of Dr. Munson's January 26, 2015 report, which indicated that appellant was injured while picking up a "letter," instead of "ladder."

In a March 26, 2015 decision, OWCP reviewed the merits of appellant's claim and found that he established the factual component of fact of injury. However, it denied the claim finding the medical evidence insufficient to demonstrate that his condition was causally related to the January 5, 2015 employment incident.

LEGAL PRECEDENT

An employee seeking compensation under FECA must establish 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 he or she sustained an injury in the performance of duty as alleged and that his or her disability for work, if any, was causally related to the employment injury.[4]

[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).

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 he or she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[5]

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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

The record evidence supports that appellant, on January 5, 2015, bent down to pick up a letter. However, the Board finds the medical evidence insufficient to establish that the January 5, 2015 employment incident caused or aggravated his lower back condition.[7]

In a January 26, 2015 medical report, Dr. Munson related that appellant injured his back at work while picking up a letter on January 5, 2015. He attributed appellant's lower back condition to small high-intensity zones. The Board notes that there is no indication that Dr. Munson specifically ascribed appellant's condition to the January 5, 2015 work incident. Rather, he merely conveyed the history of injury as reported by appellant. Dr. Munson's opinion regarding causal relationship, that appears to be primarily based on appellant's representations rather than on objective medical findings, is of limited probative value.[8] In his February 25, 2015 report, he noted that appellant, on January 5, 2015, had an exacerbation of inflammation related to his work-related injury bending over and picking up a letter. Although Dr. Munson supported causal relationship, he failed to explain the pathophysiological process by which bending over would have caused or aggravated appellant's lower back condition. In this case, the need for a rationalized medical opinion is particularly important given appellant's prior history of lower back problems. Other reports from Dr. Munson are of limited probative value as

[5] *T.H.*, 59 ECAB 388 (2008).

[6] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[7] The Board notes that the employing establishment issued a Form CA-16 authorization for medical treatment. Where an employing establishment properly executes a Form CA-16 which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See Tracey P. Spillane*, 54 ECAB 608 (2003); 20 C.F.R. §§ 10.300; 10.304.

[8] *See C.G.*, Docket No. 14-1430 (issued November 7, 2014).

they do not specifically address whether the January 5, 2015 work incident caused or contributed to a diagnosed condition. Accordingly, the Board finds that Dr. Munson's reports are insufficient to establish appellant's claim.

Appellant also submitted various medical reports and state workers' compensation forms completed by Dr. Dao. In his workers' compensation forms, Dr. Dao diagnosed lumbago and checked a box "yes" to indicate that appellant's condition was work related. The Board has held, however, that an opinion on causal relationship which consists only of a physician checking a box without further rationale is of little probative value.[9] Dr. Dao failed to provide any explanation for his opinion. Without explanation, his reports are insufficient to establish causal relationship.[10] In his January 5 and 19, 2015 medical reports, Dr. Dao opined that appellant's lower back condition was due to bending on January 5, 2015. However, he did not explain, with medical rationale, how bending actually caused or aggravated appellant's injury.[11]

The January 14, 2015 diagnostic report is insufficient to establish the claim as it did not provide a physician's opinion on the cause of appellant's conditions. Medical evidence that does not provide any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[12] Physical therapy records submitted by appellant are also insufficient to establish the claim as they do not constitute competent medical evidence.[13]

On appeal, appellant contends that Dr. Munson's medical reports are sufficient to establish his claim. As noted above, the record medical evidence does not contain adequate medical rationale explaining how the January 5, 2015 incident actually caused or aggravated his back condition. Accordingly, the Board finds that appellant failed 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 did not meet his burden of proof to establish a traumatic injury in the performance of duty.

[9] *See Calvin E. King, Jr.*, 51 ECAB 394 (2000); *Frederick E. Howard, Jr.*, 41 ECAB 843 (1990).

[10] *Id*.

[11] *See W.G.*, Docket No. 15-0573 (issued May 18, 2015).

[12] *Jaja K. Asaramo*, 55 ECAB 200 (2004).

[13] The term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2). *See David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

ORDER

IT IS HEREBY ORDERED THAT the March 26, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 23, 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