

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

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**S.T., Appellant**

**and**

**DEPARTMENT OF AGRICULTURE, FOOD  
SAFETY & INSPECTION SERVICE,  
Alameda, CA, Employer**

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**Docket No. 15-1362  
Issued: October 1, 2015**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On June 4, 2015 appellant filed a timely appeal from a May 5, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish an injury causally related to a January 29, 2015 employment incident.

**FACTUAL HISTORY**

On February 12, 2015 appellant, then a 31-year-old employee, filed a traumatic injury claim alleging that on January 29, 2015 she experienced a pop in her right shoulder and a pulling

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

sensation in her back while stacking paper in a cabinet. She stopped work on January 30, 2015. The employing establishment controverted the claim, contending that appellant already had an “inability to perform work tasks due to [a] previous injury.”

In a disability certificate dated January 30, 2015, Dr. Richard Karp, an internist, found that appellant was unable to work from January 31 to February 22, 2015.

In a report dated February 10, 2015, Dr. Karp advised that he treated appellant on February 2 and 4, 2015 “for a work[-]related injury that reportedly occurred on January 30, 2015. [Appellant] suffered a cervical strain with radiculopathy, a right shoulder sprain, and a low back strain.” Dr. Karp opined that she was disabled from work until March 23, 2015.

By letter dated February 18, 2015, OWCP requested that appellant submit additional factual and medical evidence, including a detailed report from her attending physician addressing the relationship between any diagnosed condition and the identified employment incident.<sup>2</sup>

On March 23, 2015 Dr. Karp advised that appellant was disabled from March 23 to April 5, 2015 and could return to light duty on April 6, 2015.

Appellant returned to her regular employment on April 6, 2015.

By decision dated May 5, 2015, OWCP denied appellant’s claim as the medical evidence was insufficient to establish a diagnosed condition as a result of the accepted January 29, 2015 work incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an “employee of the United States” within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>5</sup>

To determine whether an employee sustained a traumatic injury in the performance of duty, OWCP must determine whether “fact of injury” is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place, and in the manner alleged, by a preponderance of the reliable, probative, and substantial evidence.<sup>6</sup> Second, the

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<sup>2</sup> OWCP’s February 18, 2015 development letter was returned as undeliverable. Appellant subsequently advised it of her address change, and, on April 2, 2015, OWCP resent the development letter to her new address.

<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> *Alvin V. Gadd*, 57 ECAB 172 (2005); *Anthony P. Silva*, 55 ECAB 179 (2003).

<sup>5</sup> *See Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>6</sup> *David Apgar*, 57 ECAB 137 (2005); *Delphyne L. Glover*, 51 ECAB 146 (1999).

employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed.<sup>7</sup> An employee may establish that the employment incident occurred as alleged, but fail to show that her disability and/or condition relates to the employment incident.<sup>8</sup>

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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.<sup>9</sup>

### ANALYSIS

Appellant alleged that she sustained an injury to her back and right shoulder on January 19, 2015 caused by stacking paper in the copy room. She has established the occurrence of the employment incident. The Board finds, however, that the medical evidence is insufficient to establish that the employment incident resulted in an injury.

In a disability certificate dated January 30, 2015, Dr. Karp advised that appellant was disabled from employment for the period January 31 to February 22, 2015. On March 23, 2015 he determined that she was disabled from March 23 to April 5, 2015 and could perform modified employment beginning April 6, 2015. Dr. Karp, however, did not address the cause of appellant's disability or relate it to the January 29, 2015 work incident consequently, his reports are of little probative value.<sup>10</sup>

On February 10, 2015 Dr. Karp discussed his treatment of appellant on February 2 and 4, 2015 for an employment injury purportedly occurring on January 30, 2015. He diagnosed low back strain, right shoulder sprain, and cervical sprain with radiculopathy. Dr. Karp opined that appellant was disabled until March 23, 2015. Although he advised that appellant injured herself at work, he failed to explain how the identified work incident caused or contributed to the diagnosed conditions. Consequently, Dr. Karp's report is insufficient to meet her burden of proof.<sup>11</sup>

On February 18, 2015 OWCP advised appellant of the type of medical evidence needed to establish her claim. Appellant has not, however, submitted additional medical evidence

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<sup>7</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

<sup>8</sup> *Id.*

<sup>9</sup> *See I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>10</sup> *See Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer an opinion regarding the cause of an employee's condition is of limited probative value).

<sup>11</sup> *See Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

sufficient to establish that she sustained a condition causally related to the January 30, 2015 work incident.

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 and 20 C.F.R. §§ 10.605 through 10.607.

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish an injury causally related to a January 29, 2015 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 5, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 1, 2015  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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