United States Department of Labor
Employees' Compensation Appeals Board

D.B., Appellant	)	
and	)	**Docket No. 15-1507**
	)	**Issued: October 26, 2015**
DEPARTMENT OF THE AIR FORCE, OGDEN UTAH - OAMA, RANDOLPH AIR FORCE BASE, TX, Employer	)	

Appearances:
Lennin V. Perez., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 6, 2015 appellant, through his representative, filed a timely appeal from a May 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 this case.[2]

ISSUE

The issue is whether appellant met his burden of proof to establish that he developed a right leg or back injury as a result of his federal employment duties.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that appellant has two other occupational disease claims which are currently on appeal before the Board, Claim No. xxxxxx584 Docket No. 15-1501 (issued October 19, 2015) and Claim No. xxxxxx967 Docket No. 15-1506 (issued October 26, 2015). The findings in this Claim No. xxxxxx820, pertain to his right leg and back conditions only.

FACTUAL HISTORY

On April 21, 2014 appellant, then a 60-year-old sheet metal mechanic, filed an occupational disease claim (Form CA-2) alleging that he developed back pain and right leg numbness as a result of his federal employment duties. He first became aware of his condition on April 1, 2010 and of its relationship to his employment on March 13, 2014. Appellant first sought medical treatment on January 10, 2014. Appellant's supervisor noted on the claim form that he had stopped work on September 25, 2013.

By letter dated May 2, 2014, OWCP informed appellant that the evidence of record was insufficient to support his claim. It noted that he failed to identify the cause of his injury and no evidence was received. Appellant was advised of the factual and medical evidence needed and was afforded 30 days to respond.

By letter dated May 7, 2014, the employing establishment controverted the claim. An official position description for a sheet metal mechanic and notification of personnel action (Form SF-50) was submitted.

By letter dated January 10, 2014, Dr. Jeffery Lee DeGrauw, Board-certified in family medicine, reported that appellant was his patient for several years and was permanently disabled due to his gradual and progressive decline in functional ability. He noted limitations in both physical and cognitive abilities with significant impairment in short-term memory. Dr. DeGrauw reported significant arthritic changes involving the hands, neck, lower back, and shoulders which prevented appellant from using his lower and upper extremities. He further diagnosed Raynaud's syndrome, hearing impairment, and cognitive impairment which prevented appellant from returning back to the workforce.

In a February 28, 2014 medical report, Dr. DeGrauw reported that appellant had chronic shoulder and neck injuries either related to or associated with his employment. He had a magnetic resonance imaging (MRI) scan and a surgical consultation as multiple medical opinions found him unfit to return to regular activities. Dr. DeGrauw noted factors that could affect or aggravate appellant's condition involved jobs which required working with his hands above his shoulders and/or repetitive pushing, lifting, or pulling activities. He further noted that appellant had significant issues with bending and twisting of the neck and torso area and was further limited by his functional ability in the hands, elbows, and shoulders associated with degenerative arthritis from chronic occupational use. Dr. DeGrauw reported a history of sinus surgery in 2001 and 2003, as well as bilateral shoulder surgery in 2013. He provided findings on physical examination and noted right and left lower extremity musculoskeletal strength was normal. Dr. DeGrauw reported that even though the muscle groups had normal strength, range of motion, and function, the neck, back, and shoulder were severely limited due to pain associated with arthritis. He also diagnosed Raynaud's syndrome stemming back to March 3, 2011, Alzheimer's dementia, and degenerative joint disease in multiple locations including the neck, shoulders, elbows, wrists, hands, and upper and lower back. Dr. DeGrauw reported that these limitations precluded appellant from ever returning to work.

In a February 25, 2014 medical report, Dr. Christopher Kleinsmith, a doctor of osteopathic medicine, reported that appellant was being evaluated for a formal fitness-of-duty

examination for his job as a sheet metal mechanic due to ongoing neck and shoulder pain, hearing loss, and Alzheimer's dementia. He noted review of MRI scan results for the cervical spine and brain from 2002 to 2004. Dr. Kleinsmith diagnosed Alzheimer's disease, shoulder joint pain, rotator cuff tendinitis, and sensorineural hearing loss.

In a May 10, 2014 e-mail correspondence, appellant's wife reported that he believed his back issues were due to 30 years of work-related lifting and bending required for his job.[3] The lifting of 150- to 175-pound horizontal stabilizers was most likely the main contributor. Appellant and his coworkers were told on numerous occasions that they would be given a hoist to lift the stabilizers, but were never provided with one.

By decision dated July 25, 2014, OWCP denied appellant's claim finding that the evidence did not establish that the occupational exposure occurred as alleged. It also found that appellant failed to establish a firm medical diagnosis which could be reasonably attributed to the alleged occupational exposure.

Documentation was provided dated July 16, 2014 indicating that appellant was separated from his employment as a sheet metal mechanic due to his physical inability to perform the duties of that position.

On July 28, 2014 appellant, with assistance of his representative, requested an oral hearing before an OWCP hearing representative. He submitted numerous x-ray images of the cervical and lumbar spine. The images were not accompanied by a medical report interpreting the findings and did not identify a physician or date of study.

In a May 21, 2014 medical report, Dr. DeGrauw reported that appellant was his patient for several years and was permanently disabled. He noted that in January 2014 appellant was diagnosed with Alzheimer's-type dementia. Dr. Kleinsmith speculated that his dementia could be related to exposure from hazardous work chemicals. He noted that appellant experienced numbness, tingling, and pain involving the tips of his fingers and earlobes. In March 2011, appellant was diagnosed with Raynaud's syndrome. Dr. DeGrauw reported that appellant had no prior similar symptoms and opined that Raynaud's syndrome was caused by the use of pneumatic tools. He further noted that the continual use of these pneumatic tools could eventually lead to amputation of the fingers due to their effect on circulation. Dr. Kleinsmith further diagnosed chronic degenerative joint disease in multiple areas of the body including the lower back, upper back, neck, shoulders, wrists, and elbows. Chronic problems related to the neck and back stemmed back to 2002 with incidences as far back as 1987. Dr. DeGrauw explained that appellant's work as a sheet metal mechanic for the past 30 years involved lifting heavy items weighing 150 to 175 pounds, frequent bending and stooping approximated at 80 degree angles for 70 to 80 percent of the day, and frequent bending over using pneumatic bands to apply sheet metal. He noted that the repetitive heavy lifting involved multiple aspects of appellant's body including his lower back, upper back, neck, shoulders, wrists, and elbows.

[3] Appellant provided authorization to allow his wife to speak on his behalf pertaining to his workers' compensation claims.

Dr. DeGrauw also diagnosed tendinitis and carpal tunnel syndrome in the hands and elbows, stemming back to 2013. He explained that appellant's job involved gripping and handling tools 100 percent of the time. Dr. Kleinsmith further noted issues with chronic migraine and tension headaches. He reported that, over the past several years, appellant had been seen and treated for the various above mentioned-illnesses by neurology, orthopedics, and primary care physicians which were too numerous to be documented. Dr. Kleinsmith concluded that appellant was unable to work and was permanently disabled.

A hearing was held on March 11, 2015 and appellant was represented. At the hearing, appellant testified regarding his federal employment and work exposure. He stated that his work as a riveter and sheet metal mechanic required him to lift 175-pound stabilizers roughly 60 times a day which entailed constant lifting, bending over, twisting, turning, and stretching. Appellant noted that it typically required two people to lift the stabilizers in order to remove and replace rivets. He performed this task since 2001. Appellant argued that this task, along with constant bending, caused his back and right leg injury. He explained that his work required him to bend over and look down at whatever he was working on for the entirety of his shift. Appellant stated that he worked 10 hours a day and overtime two days a week, averaging about 50 to 60 hours per week. He reported that he had not worked in the shop since 2013 due to a work-related bilateral shoulder surgery.[4] Appellant had no prior injuries or problems with his back or legs until he was required to lift these stabilizers.

Following the hearing, notification of Personnel Action forms and official position descriptions were submitted indicating that appellant began working as a sheet metal mechanic on May 13, 1985.

In an undated narrative statement, appellant provided a detailed description of his employment duties and the tools he used. He stated that he worked full time Monday through Thursday, 10 hours daily. Appellant stated that he was constantly exposed to harmful chemicals and used pneumatic tools which were heavy, loud, and vibrated in his hands. He provided details pertaining to his work with inlet rings and stabilizers and further explained that his duties entailed going up and down stairs, lifting heavy equipment, bending, stooping, twisting, and turning. Appellant stated that his employment duties resulted in his injuries which forced him to start cutting back his hours. He provided official position descriptions, pictures of the tools he used, and explanations pertaining to the frequency and mechanics of each of his work-related tasks.

By decision dated May 26, 2015, an OWCP hearing representative affirmed the July 25, 2014 decision finding that appellant failed to establish a firm medical diagnosis which could be reasonably attributed to his federal employment duties.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United

[4] The Board notes that the record contains no other information pertaining to appellant's bilateral shoulder injury claim.

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 or specific condition for which compensation is claimed are causally related to the employment injury.[5] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.[6]

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[7] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (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.[8]

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.[9] The opinion of the physician must be based on a complete factual and medical background of the claimant, 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.[10]

ANALYSIS

Appellant has established that he engaged in repetitive activities of lifting, bending, twisting, and turning as a sheet metal mechanic. The issue, therefore, is whether he submitted

[5] *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

[6] *Michael E. Smith*, 50 ECAB 313 (1999).

[7] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[8] *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

[9] *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

[10] *James Mack*, 43 ECAB 321 (1991).

sufficient medical evidence to establish that the employment exposure caused him a right leg or back injury. This is a medical question. The Board finds that appellant did not submit sufficient medical evidence to support that he sustained a right leg and back injury causally related to factors of his federal employment as a sheet metal mechanic.[11]

In support of his claim, appellant submitted medical reports dated January 10, February 28, and May 21, 2014 from Dr. DeGrauw, his treating physician. The Board notes that he is alleging right leg numbness and back pain in this occupational disease Claim No. xxxxxx820. Specifically, appellant has alleged that repetitive bench work and lifting of stabilizers caused him a right leg and back injury. Thus, Dr. DeGrauw's opinions pertaining to other conditions not claimed as work related in this claim are irrelevant and of no probative value to the issue of whether appellant's right leg and back injury are caused by his occupational employment duties.

The Board finds that the medical opinions of Dr. DeGrauw are not well rationalized. In his February 28 and May 21, 2014 reports, Dr. DeGrauw diagnosed degenerative joint disease of the upper and lower back. He failed to provide a detailed medical history or review of diagnostic reports. While Dr. DeGrauw generally noted that he treated appellant for several years, the record does not contain medical examination findings and reports which actually establish the diagnosis of lower and upper back degenerative joint disease. He vaguely noted treatment and findings by neurology, orthopedics, and primary care physicians which were too numerous to document. The procedure manual provides that greater probative value is given to a medical opinion based on an actual examination. An opinion based on a cursory or incomplete examination will have less value compared to an opinion based on a more complete evaluation.[12]

Dr. DeGrauw only generally noted that appellant engaged in repetitive pushing, lifting, pulling, bending, and twisting and failed to adequately describe the occupational duties alleged to have caused degenerative joint disease of the back. Moreover, his February 28, 2014 physical examination of the right and left lower extremity revealed normal strength, range of motion, and function. Dr. DeGrauw reported that even with normal examination findings, the neck, back, and shoulder were severely limited due to pain associated with arthritis. However, he failed to establish arthritis of the back as he has provided no support or objective evidence establishing this condition.[13]

In his May 21, 2014 report, Dr. DeGrauw diagnosed chronic degenerative joint disease in multiple areas of the body including the lower back, upper back, neck, shoulders, wrists, and elbows. With respect to degenerative joint disease of the lower and upper back, he noted that appellant's symptoms were present since 2002 with incidences stemming back to 1987. Dr. DeGrauw again failed to provide an adequate and detailed medical history and did not address why appellant's complaints were not caused by a preexisting degenerative condition or nonoccupational injury. His general observation that repetitive lifting involved multiple aspects

[11] *See Robert Broome*, 55 ECAB 339 (2004).

[12] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.6(a)(4) (September 2010).

[13] *T.G.*, Docket No. 13-76 (issued March 22, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

of the body is speculative and equivocal in nature, providing only a vague inference of causal connection. Dr. DeGrauw's report provided no discussion regarding whether preexisting degenerative joint disease had progressed beyond what might be expected from the natural progression of that condition.[14] A well-rationalized opinion is particularly warranted when there is a history of a preexisting condition.[15] While Dr. DeGrauw had some understanding of appellant's employment duties,[16] he failed to establish a firm medical diagnosis establishing a right leg, or back injury, and did not provide a rationalized opinion on causal relationship. Thus, his medical report does not constitute probative medical evidence because he fails to provide a clear diagnosis and does not adequately explain the cause of appellant's injury.[17]

The record contains no other medical reports documenting treatment of these conditions, making it unclear what diagnostic reports or examination findings Dr. DeGrauw utilized to ascertain the diagnoses provided. An explanation not supported by physical findings does not constitute a well-rationalized medical opinion.[18] Dr. DeGrauw's reports do not meet that standard and are insufficient to meet appellant's burden of proof.[19]

The remaining medical evidence of record is also insufficient to establish appellant's claim. Dr. Kleinsmith's February 25, 2014 report is of no probative value as he provided no findings pertaining to the back or lower extremities as alleged by appellant in this occupational disease claim.[20] The x-ray images of the cervical and lumbar spine are also of no probative value as they were not accompanied by a physician's diagnostic report interpreting the findings.[21] As noted above, the additional diagnoses provided by Dr. DeGrauw that do not relate to the right leg and lower back injuries alleged by appellant in this claim are of no probative value. It is appellant's burden to specify the nature of his claim.[22]

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[14] *R.E.*, Docket No. 14-868 (issued September 24, 2014).

[15] The Board has held that an opinion that a condition is causally related because the employee was asymptomatic before the injury is insufficient, without adequate rationale, to establish causal relationship. *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

[16] The physician explained that appellant's work as a sheet metal mechanic for the past 30 years involved lifting heavy items weighing 150 to 175 pounds, frequent bending over and stooping approximated at 80 degree angles for 70 to 80 percent of the day, and frequent bending over using pneumatic bands to apply sheet metal.

[17] *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

[18] *Supra* note 12 at Chapter 2.810.6(a)(2).

[19] *See L.M.*, Docket No. 14-973 (issued August 25, 2014); *R.G.*, Docket No. 14-113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-548 (issued November 16, 2012).

[20] The Board notes that, at the March 11, 2015 hearing, appellant's representative testified that he had a previous work-related shoulder injury for which he underwent surgery. The record before the Board contains no other information pertaining to this claim.

[21] The x-ray images also failed to identify a physician or date of study. *See J.P.*, Docket No. 14-87 (issue March 14, 2014).

[22] *O.S.*, Docket No. 13-438 (issued July 15, 2014).

In the instant case, the record is without rationalized medical evidence establishing a diagnosed medical condition causally related to the accepted federal employment duties. OWCP advised appellant of the type of medical evidence required to establish his claim; however, he failed to submit such evidence. Thus, appellant has failed to meet his burden of proof.

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. §§ 10.606 and 10.607.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he developed a right leg or back injury as a result of his federal employment duties.

ORDER

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

Issued: October 26, 2015
Washington, DC

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

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

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