United States Department of Labor
Employees' Compensation Appeals Board

Y.S., Appellant	)	
and	)	**Docket No. 16-0882**
	)	**Issued: August 19, 2016**
U.S. POSTAL SERVICE, POST OFFICE, Washington, DC, 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
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On March 23, 2016 appellant filed a timely appeal from a January 27, 2016 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.

ISSUE

The issue is whether appellant established a traumatic injury on July 14, 2015 causally related to the accepted employment incident.

FACTUAL HISTORY

On July 18, 2015 appellant, then a 53-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on July 14, 2015 she was dismounting her truck to deliver a package and tripped while she was exiting her truck. She reported that when she tripped, she twisted her back and pulled a muscle in her left leg behind the knee. Appellant's supervisor controverted the

[1] 5 U.S.C. § 8101 *et seq.*

claim reporting that appellant's statement was inconsistent with the facts found during the investigation.

By letter dated July 29, 2015, OWCP requested that the employing establishment provide additional information pertaining to the July 14, 2015 employment incident. In another letter of that same date, it informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the medical and factual evidence needed and was afforded 30 days to respond, but failed to respond.

By decision dated September 1, 2015, OWCP denied appellant's claim finding that appellant had not established that the July 14, 2015 employment incident occurred at the time, place, and in the manner alleged. It noted that she failed to establish fact of injury because she did not respond to the questionnaire that was sent with the July 29, 2015 development letter. OWCP further found that there was no evidence of record to establish a firm medical diagnosis which could be reasonably attributed to the alleged July 14, 2015 employment incident.

On September 18, 2015 appellant requested review of the written record before an OWCP hearing representative. In support of her claim, she submitted a narrative statement explaining that she was injured on July 14, 2015 when she was delivering mail and packages on her route. Appellant reported that she dismounted her truck to retrieve a package from the back she stumbled over an unseen object in the road causing her to lose her footing. She attempted to stop herself from falling and twisted her body in an awkward position. Appellant explained that she attempted to break her fall, but her left knee bent in an awkward position which caused her to pull a muscle in her lower back. She completed her route in pain which worsened over the next few days, causing her to seek medical attention. Appellant further stated that she had no prior issues with her left knee or back until the July 14, 2015 employment incident.

In support of her claim, appellant submitted medical reports dated July 31 through September 2, 2015 from Dr. James M. Weiss, a Board-certified orthopedic surgeon. In his July 31, 2015 report, Dr. Weiss noted that on July 14, 2015 appellant exited her truck and was walking around it when she tripped and fell, injuring her lower back and left knee. He provided findings on physical examination and noted that x-rays revealed moderate degenerative changes of the lumbar spine, as well as degenerative changes of the knee. Dr. Weiss diagnosed left knee sprain and lumbar sprain.[2] In reports dated August 12 through September 2, 2015, he provided findings on physical examination and work restrictions.

By decision dated January 27, 2016, OWCP's hearing representative affirmed the September 1, 2015 decision, as modified, finding that evidence of record established that the July 14, 2015 employment incident occurred as alleged. However, the hearing representative also found that appellant failed to provide a signed medical report with a firm medical diagnosis which could be reasonably attributed to the July 14, 2015 employment incident.

[2] The Board notes that the original medical diagnoses of sprain by Dr. Weiss, was to appellant's right knee. However, on August 12, 2015 he corrected the diagnoses to reflect a sprain of the left knee. The remainder of Dr. Weiss' medical reports are consistent in reporting complaints of the left knee.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 or specific condition for which compensation is claimed are causally related to the employment injury.[3] 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.[4]

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.[5] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

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.[6] The opinion of the physician must be based on 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.[7]

ANALYSIS

The Board finds that appellant failed to establish left knee and back conditions causally related to the accepted July 14, 2015 employment incident.

In support of her claim, appellant submitted medical reports dated July 31 through September 2, 2015 from Dr. Weiss, her treating physician. In the January 27, 2016 decision, OWCP's hearing representative found Dr. Weiss' reports to lack probative value as the author of the documents could not be identified as a physician. The Board notes that Dr. Weiss' reports were printed on his office letterhead and contained a signature line with his printed name. While

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

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

[5] *Elaine Pendleton*, *supra* note 3.

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

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

his reports may be unsigned, the Board finds that there are sufficient indicia of identification concerning its author and authorship can be ascertained.[8] Thus, the reports are of probative value as the evidence establishes that they were created by Dr. Weiss.[9]

In his July 31, 2015 medical report, Dr. Weiss described the July 14, 2015 incident explaining that appellant had exited her truck and was walking around it when she tripped and fell, injuring her lower back and left knee. He diagnosed left knee sprain and lumbar sprain. Appellant, therefore, has sufficiently established a sufficient diagnosis of lumbar and left knee strain based on Dr. Weiss' July 31, 2015 report.

While Dr. Weiss established diagnoses of lumbar and left knee strains, he failed to provide a rationalized medical opinion regarding the cause of appellant's conditions. His July 31, 2015 report vaguely noted that appellant injured her back and did not provide details regarding her medical history or comment on any potential preexisting lumbar conditions. Dr. Weiss noted that x-rays of the lumbar spine showed moderate degenerative changes yet failed to explain why her lumbar injury was not caused by a preexisting degenerative condition. He merely recounted the incident as described by appellant and failed to detail the physical exertion and activities which would cause her injury on July 14, 2015. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[10] The opinion of a physician supporting causal relationship must rest on a complete factual and medical background supported by affirmative evidence, address the specific factual and medical evidence of record, and provide medical rationale explaining the relationship between the diagnosed condition and the established incident or factor of employment.[11] Without explaining how physiologically the movements involved in the employment incident caused or contributed to the diagnosed conditions, Dr. Weiss' opinion is of limited probative value and is insufficient to meet appellant's burden of proof.[12]

Dr. Weiss' reports dated August 12 through September 2, 2015 are also insufficient to establish that appellant sustained injuries causally related to the July 14, 2015 employment incident.[13] These reports fail to provide a firm diagnosis and do not contain a narrative opinion on causal relationship between the diagnosed conditions and the accepted employment incident.[14]

[8] *T.B.*, Docket No. 15-0001 (issued July 1, 2015).

[9] *Id.*

[10] *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[11] *See Lee R. Haywood*, 48 ECAB 145 (1996).

[12] *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).

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

[14] *A.T.*, Docket No. 15-632 (issued June 9, 2015).

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relationship.[15] An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.[16] To establish a firm medical diagnosis and causal relationship, appellant must submit a physician's report in which the physician reviews those factors of employment alleged to have caused her condition and, taking these factors into consideration, as well as findings upon examination and appellant's medical history, explain how these employment factors caused or aggravated any diagnosed condition, and present medical rationale in support of his opinion.[17]

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 has not met her burden of proof to establish a traumatic injury on July 14, 2015 causally related to her accepted employment incident.

[15] *Daniel O. Vasquez*, 57 ECAB 559 (2006).

[16] *D.D.*, 57 ECAB 734 (2006).

[17] *Supra* note 10.

ORDER

IT IS HEREBY ORDERED THAT the January 27, 2016 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: August 19, 2016
Washington, DC

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

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

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