United States Department of Labor
Employees' Compensation Appeals Board

J.M., Appellant	)	
and	)	**Docket No. 15-1936**
	)	**Issued: January 29, 2016**
U.S. POSTAL SERVICE, POST OFFICE, Gilbert, AZ, 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
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On September 28, 2015 appellant filed a timely appeal from a September 14, 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.

ISSUE

The issue is whether appellant has met her burden of proof to establish an injury in the performance of duty.

FACTUAL HISTORY

On July 28, 2015 appellant, then a 30-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that she sustained a low back and right side injury in the

[1] 5 U.S.C. § 8101 *et seq.*

performance of duty. She alleged that she sustained the injury when she lifted a bundle of mail on July 28, 2015. Appellant did not stop work.

In a statement received on August 3, 2015, appellant advised that she bent down to pick up a bundle of magazines when she felt shooting pain on the right side of her low back. She noted that she continued working, but when she bent down again the pain returned.

On August 3, 2015 the employing establishment controverted appellant's claim. It argued that she indicated on her traumatic injury claim form that she lifted a bundle of mail, but alleged in her statement that she felt pain when she simply bent down. The employing establishment asserted that this inconsistency cast doubt on the validity of her claim and that bending down was not a valid mechanism of injury.

In a July 28, 2015 report, Dr. Dungchi Nguyen, an osteopath specializing in occupational medicine, noted that appellant related she had been bending over to pick up a bundle of magazines when she felt shooting pain in her lower right back. He diagnosed lumbar sprain. Dr. Nguyen limited lifting, pushing, and pulling to five pounds. He advised that appellant could not drive and limited her bending, stooping, and twisting at the waist. In a July 28, 2015 duty status report (Form CA-17), Dr. Nguyen limited lifting and carrying to two pounds, limited pushing and pulling to five pounds, and restricted appellant from driving a postal vehicle.

By letter dated August 5, 2015, OWCP advised appellant of the type evidence needed to establish her claim. It allowed her 30 days from the date of the letter to submit responsive evidence.

On July 31, 2015 appellant returned to full-duty work without restrictions.

In an August 10, 2015 report, Dr. Nguyen advised that appellant had complained of a constant ache in her back. He noted that on July 31, 2015 appellant had gone back to work, but that her back was sore after three hours. Dr. Nguyen noted that appellant currently related that she felt better, had no residual pain, and felt that her condition was resolved. Examination revealed a steady gait, adequate range of motion, no tenderness, and no muscle spasm on palpation. In a separate August 10, 2015 report, Dr. Nguyen advised that appellant was discharged from his medical care and was fully recovered.

By decision dated September 14, 2015, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish that the diagnosed condition was causally related to the accepted work incident.

LEGAL PRECEDENT

An employee seeking compensation under FECA has the burden of establishing 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

[2] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

she filed his or her claim within the applicable time limitation.[3] The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.[4]

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

Rationalized medical opinion evidence is generally required to establish causal relationship. 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

OWCP accepted the July 28, 2015 incident. The Board finds, however, that appellant failed to submit sufficient medical evidence to establish that the diagnosed medical condition was causally related to this incident.

In his July 28, 2015 report, Dr. Nguyen noted appellant's claim was that she was bending over to pick up a bundle of magazines when she felt shooting pain in her lower right back. He diagnosed lumbar spine sprain and provided work restrictions. Although Dr. Nguyen provides the history as related by appellant, he does not provide an opinion as to the cause of appellant's condition. Dr. Nguyen's July 28, 2015 duty status report and his August 10, 2015 reports are also insufficient to discharge appellant's burden of proof as they do not offer an opinion on causal relationship. The Board has held that a report without an opinion as to causal relationship is of little probative value.[7] The Board therefore finds that appellant has submitted insufficient medical evidence to establish her claim.

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.

[3] *R.C.*, 59 ECAB 427 (2008).

[4] *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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

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

[7] *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 on the issue of causal relationship).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the September 14, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 29, 2016
Washington, DC

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

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board