

from a high speed tray sorter (HSTS) to a workstation, as well as by pushing an all-purpose container (APC). She asserted that this caused a herniated disc. Appellant stopped work on March 10, 2013.

The employing establishment submitted statements dated September 4 and 9, 2013 from Blane Amerman, appellant's supervisor. Dr. Amerman noted that on April 16, 2013 appellant had informed him that she had not been injured at work, but rather that she had fallen down stairs at home and had gone to an emergency room.

In a statement dated May 20, 2013, appellant related that on March 10, 2013 she was processing mail which included retrieving mail from an HSTS, lifting and placing the trays into an APC, and pushing the container to her workstation for further processing. This process was performed repeatedly. The next day appellant experienced pain and spasms in her back and did not return to work until March 13, 2013. She sought emergency room treatment on March 14, 2013 and realized her sciatic spasms in her low back and buttocks were related to her work duties.

Appellant submitted March 14, 2013 emergency room discharge instructions from Dr. Daniel J. Weeks, Board-certified in emergency medicine, which reflected a diagnosis of back sprain and strain. In a duty status report (Form CA-17) dated March 14, 2013, prepared by a physician assistant, appellant was diagnosed with lumbar strain and sciatica and released to regular duty on March 23, 2013.

Appellant was treated by Dr. William Knowles, a Board-certified internist, on March 25, 2013. Dr. Knowles noted that appellant was excused from work from March 24 to April 19, 2013. Dr. Jimmie Young, a Board-certified internist and an associate of Dr. Knowles, saw appellant on April 18 and May 20, 2013. He opined that her condition was work related "as noted in the work requirements of the employee." Dr. Young advised that a lumbar spine magnetic resonance imaging (MRI) scan showed a herniated disc and several bulging discs. He noted that appellant was totally disabled from April 20 to May 20, 2013. In a May 24, 2013 report, Dr. Young noted treating appellant on March 25, 2013 for low back pain and spasms. He noted that she was seen in the emergency room on March 14, 2013 and x-rays revealed mild degenerative joint disease. Dr. Young advised that a lumbar spine MRI scan showed a herniated disc and a bulging disc. He opined that, after discussing appellant's work duties, he concluded her conditions were work related. Dr. Young advised that her mobility was severely restricted. On August 30, 2013 he noted that appellant was injured on the job and was disabled from September 3 to October 3, 2013.

By letter dated October 2, 2013, OWCP advised appellant of the type of evidence needed to establish her claim, particularly requesting that she submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific employment factors.

Appellant submitted an October 7, 2013 report from Dr. Young who advised that appellant was disabled from October 4 to November 18, 2013.

In a November 1, 2013 decision, OWCP denied appellant's claim, finding that the evidence of record did not support that the injury or events occurred as alleged.

On November 15, 2013 appellant requested reconsideration. She submitted emergency room records dated March 14, 2013, a March 25, 2013 report from Dr. Knowles, a Form CA-1, and reports from Dr. Young dated April 18 to October 7, 2013, all previously of record. Appellant submitted a duty status report dated March 14, 2013 from a physician assistant who diagnosed lumbar strain/sciatic and noted appellant was totally disabled.

In reports dated May 30, July 1 and 23, 2013, Dr. Young opined that appellant was disabled from May 31 to September 2, 2013 for medical reasons. In an attending physician's report dated October 31, 2013, he noted that appellant had reported that her injury occurred while at work lifting heavy trays, and bending, lifting, and pushing mail containers. Dr. Young diagnosed herniated disc at L2-3, bulging disc disease, facet arthritis and lumbar disc disease with radiculopathy. He noted with a checkmark in a box marked "yes" that appellant's condition was caused or aggravated by a work activity and noted that lifting and pushing heavy objects could cause this condition. Dr. Young again found appellant was totally disabled.

In a work capacity evaluation dated October 31, 2013, Dr. Young opined that appellant was not capable of performing her usual job noting that her symptoms, including low back pain, decreased mobility and herniated and bulging discs, limited her ability to work. He found appellant unable to work.

An April 10, 2013 MRI scan of the lumbar spine revealed a small lateral herniation of L2-3 intervertebral disc, facet arthritis at L4-5 and L5-S1.

In an October 10, 2013 response to OWCP's questions regarding her claim, appellant stated that she reported her back injury to her superiors on March 13, 2013. She contended that she had never stated that she had fallen down stairs at home or anywhere else. Appellant reiterated that the cause of her back condition was pushing heavy carts and carrying trays from station to station. There were no witnesses to the injury.

In a decision dated February 19, 2014, OWCP modified the November 1, 2013 decision, finding that the evidence of record established the claimed work incidents of March 10, 2013. However, it further found that the medical evidence submitted was insufficient to establish causal relationship between the employment incidents of March 10, 2013 and a diagnosed medical condition.

On July 24, 2014 appellant requested reconsideration. She submitted an October 31, 2013 report from Dr. Young, previously of record. Also submitted was a June 4, 2014 report from Dr. Young who opined that appellant was injured on March 10, 2013 as a result of her employment as a clerk. He noted that the injury occurred as a result of lifting heavy trays of mail daily, coupled with constant bending, lifting and pushing heavy items. Dr. Young first treated appellant on March 25, 2013 for back pain caused by work-related activities. He found her unable to return to work on March 23, 2013 due to persistent low back pain. An MRI scan revealed a herniated disc at L2-3, bulging disc disease, facet arthritis and lumbar disc disease with radiculopathy. Dr. Young noted objective findings of limited range of motion, tenderness in the lumbar region with palpation, pain with straight-leg raising, and muscle spasms. He found that repetitive lifting, pushing and bending could lead to diagnoses of herniated disc disease, radiculopathy and weakness in the lumbar area.

In a decision dated October 23, 2014, OWCP denied modification of the February 19, 2014 decision.

On June 30, 2015 appellant again requested reconsideration. She submitted evidence previously of record. Also provided was a December 15, 2014 report from Dr. Steven J. Valentino, a Board-certified orthopedist, who saw appellant for localized pain at L3 thru S1, radiation into the bilateral posterior thighs, occasional numbness. Appellant reported that the symptoms were present since a work injury on March 10, 2013 which occurred after bending, lifting and pushing. A review of an MRI scan from April 10, 2013 revealed left lateral herniation at L2-3 with multilevel facet arthritis. Dr. Valentino noted range of motion significantly limited in all planes. Palpation of the spine revealed significant spasm and facet synovitis. Appellant had a positive straight leg raising test, intact deep tendon reflexes, normal motor and sensory examinations, and normal gait and station. Dr. Valentino diagnosed lumbago, lumbar sprain and strain, facet arthropathy, sciatica and displacement of lumbar intervertebral disc without myelopathy. He opined that her diagnoses were related to her work injury, by direct cause or aggravation, as was her disability and need for ongoing treatment.

In a decision dated September 30, 2015, OWCP denied modification of the decision dated October 23, 2014.

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 States within the meaning of FECA, that the claim was filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.²

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 actually experienced the employment incident at the time and place and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.³

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

² *Gary J. Watling*, 52 ECAB 357 (2001).

³ *T.H.*, 59 ECAB 388 (2008).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

ANALYSIS

It is not disputed that on March 10, 2013 appellant was lifting trays of mail from an HSTS and pushing an APC. However, she has not submitted sufficient medical evidence to establish that these work activities caused or aggravated her diagnosed low back conditions.

Appellant submitted a December 15, 2014 report from Dr. Valentino who noted her complaints of localized pain at L3 thru S1 with radiation into the bilateral posterior thighs since a March 10, 2013 work injury that occurred after bending, lifting and pushing. Dr. Valentino diagnosed lumbago, lumbar sprain and strain, facet arthropathy, sciatica and displacement of lumbar intervertebral disc without myelopathy. He opined that these diagnoses were caused or aggravated by work duties as was her need for ongoing treatment. The Board finds that, although Dr. Valentino noted the diagnoses were related to appellant's work, he did not provide medical rationale explaining the basis of his conclusory opinion regarding the causal relationship between appellant's herniated disc and bulging discs and the March 10, 2013 employment incident.⁵ Therefore, this report is insufficient to meet appellant's burden of proof.

In a June 4, 2014 report, Dr. Young noted appellant was injured on March 10, 2013 as a result of her employment. He noted the injury occurred as a result of lifting heavy trays of mail daily coupled with constant bending, lifting and pushing heavy items. Dr. Young first treated appellant on March 25, for back pain caused by work-related activities. He advised that appellant was unable to work on March 23, 2013 due to persistent low back pain. Dr. Young noted an MRI scan showed a herniated disc at L2-L3, bulging disc disease, facet arthritis, and lumbar disc disease with radiculopathy. He stated that repetitive activity of lifting, pushing and bending could lead to diagnoses of herniated disc disease with radiculopathy. Similarly, Dr. Young provided other reports from April 18 to October 31, 2013, in which he advised that appellant had a herniated disc and opined that appellant's condition was work related. The Board finds that, although Dr. Young supported causal relationship, he did not provide medical rationale explaining the basis of his conclusory opinion regarding the causal relationship between appellant's herniated disc and the factors of employment.⁶ Dr. Young did not explain the process by which lifting trays of mail, bending, lifting and pushing heavy items would cause the diagnosed condition or why such condition would not be due to any nonwork factors such as age-related degenerative changes. Thus, these reports are insufficient to meet appellant's burden of proof.

⁴ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *See T.M.*, Docket No. 08-975 (issued February 6, 2009) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

⁶ *Id.*

Dr. Young provided other reports that did not specifically address whether appellant's employment activities caused or aggravated a diagnosed medical condition. These reports are of limited probative value.⁷

Appellant submitted emergency room discharge instructions dated March 14, 2013 from Dr. Weeks who diagnosed back sprain and strain. Similarly, in a report dated March 25, 2013, Dr. Knowles noted that appellant was excused from work from March 24 to April 19, 2013. These reports are insufficient to establish the claim as these physicians did not provide a history of injury⁸ or specifically address whether appellant's employment activities had caused or aggravated a diagnosed medical condition.⁹

The remainder of the medical evidence, which includes diagnostic test reports, is of limited probative value as it does not provide an opinion on the causal relationship between the March 10, 2013 work incident and appellant's diagnosed medical conditions.¹⁰

Appellant submitted a duty status report from a physician assistant. However, this evidence is of no probative medical value as the Board has held that physician assistants are not competent to render medical opinions under FECA.¹¹

Consequently, appellant has not submitted sufficient medical evidence to establish that that her work incident of March 10, 2013 caused or aggravated a diagnosed medical condition.

On appeal appellant's counsel asserts that OWCP improperly denied the claim and that she submitted sufficient medical evidence to establish that on March 10, 2013 she injured her lumbar spine while repeatedly lifting heavy trays of mail from an HSTS to a workstation and pushing an APC. As noted above, the medical evidence of record does not establish that appellant's diagnosed conditions are causally related to her employment. Appellant has not submitted a physician's report, based on an accurate history, which explains how work activities on March 10, 2013 caused or aggravated a lumbar condition.

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.

⁷ *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

⁸ *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

⁹ *See supra* note 7.

¹⁰ *See id.*

¹¹ *See S.E.*, Docket No. 08-2214 (issued May 6, 2009); 5 U.S.C. § 8101(2).

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained a diagnosed medical condition causally related to the March 10, 2013 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the September 30, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 2, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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