

ISSUE

The issue is whether appellant has met his burden of proof to establish right shoulder and cervical spine injuries causally related to an accepted March 1, 2014 employment incident.

FACTUAL HISTORY

On March 5, 2014 appellant, then a 58-year-old electrician, filed a traumatic injury claim (Form CA-1) alleging that on March 1, 2014 he sustained injuries to the right shoulder and the top of his head when the roller mechanism of an overhead door fell from its track and struck him. He provided photographs of the two roller pins and a metal hinge, and a March 7, 2014 repair invoice noting that two 3-inch rollers and a hinge had to be replaced. The employing establishment issued an authorization for examination and/or treatment (Form CA-16) on March 5, 2014 describing appellant's injury as "top of head, right shoulder pain." Appellant was off work from March 6 to 10 and April 15 and 16, 2014. He provided a coworker's statement corroborating that on March 1, 2014 appellant was "holding his head down rubbing his right shoulder, bleeding from his head and he had blood in his right hand." Appellant stated that parts of the overhead door had fallen on him. The coworker brought him towels to staunch the bleeding and then took him to the employing establishment's emergency room.

Dr. Molham Aldeiri, an employing establishment physician who treated appellant on an emergency basis immediately following the March 1, 2014 incident, noted that a computerized tomography (CT) scan of appellant's head was negative for brain injury. He diagnosed a small hematoma of the scalp and released appellant to work.

Dr. Lubor Jarolimek, an attending orthopedic surgeon, noted on March 5, 2014 that appellant had sustained an "abrasion and laceration to his head and injured his right shoulder" on March 1, 2014 when the door mechanism fell on him. On examination he found "muscle spasm right trapezius and posterior shoulder," muscle spasm in the right-sided cervical paraspinals, and a healing scalp laceration. Dr. Jarolimek diagnosed a parietal laceration/hematoma, cervical spine sprain, and right shoulder sprain. He attributed these injuries to the March 1, 2014 incident. Dr. Jarolimek released appellant to restricted duty. He prescribed a transcutaneous electrical nerve stimulator unit. Appellant presented on March 6, 2014 with continued head, neck, and right shoulder pain, nausea, and vomiting. Dr. Jarolimek observed continued right shoulder and cervical spasm, right shoulder swelling, and a healing parietal laceration. He prescribed physical therapy.³

In reports from April 2 to 15, 2014, Dr. Jarolimek related that appellant continued to complain of severe right shoulder pain, migraines, and blurry vision. Physical therapy had not relieved his symptoms. Appellant's right shoulder motion was still significantly restricted on the April 15, 2014 examination. Dr. Jarolimek prescribed additional physical therapy.

In an April 30, 2014 letter, Dr. Jarolimek opined that appellant was injured at work on March 1, 2014 "when an overhead door fell on his head, hitting him on the shoulder. [Appellant] had abrasion and laceration to his head, injuring his right shoulder as well."

³ Appellant participated in physical therapy from March to July 2014.

On May 1, 2014 the employing establishment's compensation manager controverted the claim, contending that appellant provided divergent accounts of the March 1, 2014 injury, confusing his physicians and rendering their reports of no probative value.

Dr. Steven B. Inbody, an attending Board-certified neurologist, evaluated appellant on May 12, 2014. He noted appellant's history of bilateral median nerve releases and a left rotator cuff repair. Dr. Inbody related that on March 1, 2014 appellant was struck by door parts that fell from 20 feet above him, striking his head and knocking him "to the ground with altered mental status." He diagnosed postconcussion syndrome, with a "probable cervical spine injury causing cervicocranial headaches, dizziness, and blurred vision."⁴

Appellant stopped work on May 13, 2014 and did not return.

On May 15, 2014 OWCP accepted that appellant sustained a scalp contusion, right shoulder and upper arm sprain, and neck sprain causally related to the March 1, 2014 incident.

In a May 27, 2014 investigative memorandum, the employing establishment acknowledged that on March 1, 2014 appellant tried to close a misaligned overhead door. A metal roller, which weighed nine ounces, fell from a height of 19 feet onto his head.

By notice dated June 17, 2014, OWCP advised appellant that it proposed to rescind acceptance of his claim, as the employing establishment contended that only one, small, nine-ounce object struck him in the head, without contacting or injuring any other part of his body. It afforded appellant 30 days to submit additional evidence in support of his claim.

Appellant responded by June 22, 2014 letter, explaining that two metal roller pins and a door hinge fell on him, with one of the three items striking his head, and another his right shoulder. As these metal items fell from a height of 20 feet, the impact was sufficient to knock him to the ground. A coworker took appellant to the emergency room within minutes of the incident. Appellant contended that his supervisor sought to embarrass him for filing a compensation claim.

Dr. Clark D. McKeever, an attending Board-certified orthopedic surgeon, submitted a June 24, 2014 report relating that on March 1, 2014 appellant was closing a large overhead door when it malfunctioned and "parts of metal fell onto his head and right shoulder and knocked him to the ground." Appellant was taken immediately to a hospital emergency room, where he was diagnosed with a scalp hematoma and contusion/strain injuries to the neck and right shoulder. On examination, Dr. McKeever found restricted motion of the cervical spine and right shoulder. He diagnosed cervical radiculopathy, cervical disc protrusion or herniation at C5-6 and C7-T1, and a right rotator cuff tear. Dr. McKeever recommended arthroscopic rotator cuff repair.

⁴ A May 29, 2014 magnetic resonance imaging (MRI) scan of appellant's brain was normal. A May 30, 2014 MRI scan of appellants' cervical spine showed a central to right-sided disc protrusion at C7-T1 and a C5-6 central disc protrusion with mild bilateral foraminal stenosis. A May 31, 2014 of the right shoulder showed partial surface tears of the supraspinatus and infraspinatus tendons, and a spinoglenoid notch cyst.

Dr. Jarolimek provided a July 1, 2014 report, relating that on March 1, 2014 when appellant activated the electronic switch to close a large overhead door, the track mechanism malfunctioned “and parts of the door shot out, and impacted him on the head and right shoulder, causing a laceration to his scalp and pain in his right shoulder. The malfunctioned parts that shot out towards [appellant] were rollers and brackets.” Appellant received immediate treatment in an emergency room, where he was diagnosed with a scalp laceration and hematoma.

By decision dated July 23, 2014, OWCP rescinded acceptance of the claim, finding that there were significant factual inconsistencies regarding the March 1, 2014 incident. It found that “[a]ll of the medical reports [were] inconsistent in their mechanism of injury.”

Appellant disagreed and requested a telephonic hearing, held on March 10, 2015. At the hearing, he explained that on March 1, 2014 while repairing an overhead door, the electric motor malfunctioned, ejecting two roller pins, and a bracket from a height of 20 feet. These components struck appellant in the head and right shoulder. In a written statement, appellant explained that he was assigned to repair the electric driver motor of an overhead door. When he activated a switch as part of the repair process, the door malfunctioned, causing the rods, pins, and brackets to turn into projectiles because the door motor was still running. The force of these objects, falling from a height of 20 feet, caused a laceration on his head and an impact injury to his right shoulder. A coworker found appellant immediately after the incident and took him to the emergency room. Appellant alleged that the supervisors harassed him for filing the claim and sought to discredit him. He submitted photographs of the two roller pins and a bracket that he alleged had fallen from the door.

An employing establishment supervisor contended in an April 9, 2015 letter that it could not be determined with certainty which components struck appellant, although he had submitted photographs of them. The supervisor acknowledged that he ordered two replacement rods and a bracket to repair the door following appellant’s injury, corresponding to the broken door parts in the photograph appellant provided.

In a May 14, 2015 letter, an injury compensation supervisor alleged that it could not be determined how appellant was injured. He contended that one falling component could not have struck appellant multiple times.

Appellant also provided additional medical evidence.⁵ In a June 24, 2014 addendum, Dr. McKeever opined that, based on the cervical MRI scan report, the March 1, 2014 incident also resulted in the diagnosed cervical disc herniations. Dr. Inbody submitted a July 30, 2014 letter, asserting that appellant was totally disabled and required surgery to repair a torn right rotator cuff and multilevel cervical disc herniations.

In an August 7, 2014 report, Dr. Jarolimek reiterated that metal parts which fell from a malfunctioning overhead door struck appellant’s head. He noted reviewing photographs of the door parts provided by appellant. Dr. Jarolimek opined that appellant’s “work[-]related injury to his head, neck, and right shoulder [was] a direct result of” the malfunctioning automatic door, which ejected metal parts that struck appellant’s head, right shoulder, and cervical spine. He

⁵ Appellant also submitted physical therapy notes dated from July through October 2014.

added that because the metal parts struck appellant's head, it was "reasonable to include [appellant's] neck[-]related symptoms as part of his work-related injury." Dr. Jarolimek held appellant off work.

By decision dated and finalized June 5, 2015, an OWCP hearing representative affirmed as modified the July 23, 2014 decision, finding that appellant sustained a traumatic head injury on March 1, 2014, but did not sustain cervical spine and right shoulder injuries. The hearing representative accepted as factual that appellant sustained this injury when struck by a metal object falling from an overhead door.

Appellant disagreed and, in an August 5, 2015 letter, received on August 28, 2015, requested reconsideration. He reiterated that on March 1, 2014 metal components of a malfunctioning overhead door fell from a height of 20 feet, striking his head and right shoulder. Appellant submitted copies of evidence previously of record.

In a June 10, 2015 statement, the coworker who found appellant on March 1, 2014 and took him to the emergency room affirmed that there were rollers and brackets on the floor at the time of the incident. Appellant stated that these parts struck his head and right shoulder.

In June 26, 2015 reports, Dr. Inbody opined that appellant's right shoulder injury was well documented by Dr. Jarolimek shortly after March 1, 2014. As physical therapy was not effective, appellant underwent right rotator cuff surgery. Dr. Inbody asserted that "the mechanism of injury involved one or more rollers falling from a door which lacerated [appellant's] right occipital parietal region with a second roller if not the same impacting the right supraspinatus region on the right shoulder. This caused a lump or hematoma," both of which were addressed by Dr. Jarolimek. Dr. Inbody explained that the downward axial force of the falling door components resulted in cervical disc herniations. He noted that appellant had recently undergone right rotator cuff surgery.

Dr. Jarolimek provided a July 15, 2015 report affirming that when he examined appellant on March 5, 2014 four days after the March 1, 2014 injury, appellant had "injuries to his right shoulder." He diagnosed a "parietal laceration/hematoma, cervical spine sprain and right shoulder sprain/muscle spasm." Dr. Jarolimek reiterated that these injuries were caused by the door parts striking appellant on March 1, 2014.

On July 30, 2015 OWCP accepted that on March 1, 2014 appellant sustained an open scalp wound without complications, and a "nontraumatic hematoma soft tissue."

In an October 2, 2015 decision, OWCP denied modification of the June 5, 2015 decision, finding that the medical evidence of record was insufficient to establish a causal relationship between the accepted March 1, 2014 incident and the claimed right shoulder and cervical spine conditions.

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 timely filed within the applicable time

limitation period of FECA, that an injury was sustained in the performance of duty as alleged and that any specific condition and/or disability for which compensation is claimed are causally related to the employment injury.⁶

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.⁷ The medical evidence required to establish a causal relationship between a claimed condition and employment factors is rationalized medical opinion evidence. 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 claimed condition and the specific employment factors identified by the claimant.⁸

ANALYSIS

OWCP accepted that appellant sustained an open scalp wound without complications, and a nontraumatic hematoma on March 1, 2014, when he was struck by metal parts from a malfunctioning overhead door. A May 27, 2014 employing establishment investigative memorandum corroborated that on March 1, 2014 a nine ounce metal roller fell onto appellant's head from a height of 19 feet. A coworker provided detailed witness statements, corroborating appellant's account of the March 1, 2014 incident.

Appellant contended that the established March 1, 2014 incident also caused cervical spine and right shoulder injuries. In support of his claim, he submitted reports from Dr. Jarolimek, an attending orthopedic surgeon. Dr. Jarolimek opined in reports from March 5 to April 30, 2014 that the March 1, 2014 incident caused right shoulder and cervical spine spasms. On July 1, 2014 he explained that "metal rollers and brackets" impacted appellant's head and right shoulder." Dr. Jarolimek reiterated on August 7, 2014 that appellant's cervical spine and right shoulder injuries were directly caused by the March 1, 2014 incident, in which metal parts from a malfunctioning overhead door were ejected from its drive mechanism, fell 20 feet, and struck him. He opined that the metal parts striking appellant's head were a competent cause of his cervical disc herniations. However, Dr. Jarolimek did not explain the medical reasoning supporting his conclusion that the impact of a nine ounce metal roller falling from a height of 19 feet was competent to cause a cervical spine or right shoulder injury. He did not describe the physical forces or stresses that could have caused the diagnosed conditions. In the absence of such rationale, Dr. Jarolimek's opinion is insufficient to meet appellant's burden of proof.⁹

Dr. Inbody, an attending Board-certified neurologist, noted on May 12, 2013 that on March 1, 2014 appellant was struck by metal parts which fell from a door mechanism 20 feet

⁶ *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

⁷ *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁸ *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

⁹ *See Jimmie H. Duckett*, 52 ECAB 332 (2001); *Frank D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

above him. He opined that this incident caused postconcussion syndrome with dizziness and blurred vision, and a possible cervical spine injury. In June 26, 2015 reports, Dr. Inbody opined that “rollers falling from a door” caused a head laceration, and impacted the right supraspinatus region, causing a hematoma.” However, he did not explain precisely how metal rollers falling on appellant’s head would cause postconcussion syndrome. The lack of rationale reduces the probative quality of his report.¹⁰ Additionally, Dr. Inbody’s opinion, that the falling rollers caused a “possible” cervical spine injury, is of little probative value because of its speculative nature.¹¹

Dr. McKeever, an attending Board-certified orthopedic surgeon, noted on June 24, 2014 that appellant was closing an overhead door on March 1, 2014 when “parts of metal fell onto his head and right shoulder and knocked him to the ground.” He diagnosed a scalp hematoma, cervical strain, and right shoulder contusion caused by the incident. Dr. McKeever also opined that the March 1, 2014 incident was sufficiently forceful to have caused the diagnosed cervical disc herniations. However, he did not explain the pathophysiologic mechanics whereby the forces and stresses of the metal door rollers striking appellant would cause the diagnosed shoulder contusion, cervical strain, and cervical disc herniations. The lack of medical reasoning supporting Dr. McKeever’s conclusions reduces the persuasiveness of his opinion.¹²

The Board finds that the opinions of Dr. Inbody, Dr. Jarolimek, and Dr. McKeever are not sufficiently rationalized to meet appellant’s burden of proof in establishing his claim. Therefore, OWCP’s October 2, 2015 decision is proper under the law and facts of this case.

On appeal counsel asserts that OWCP’s October 2, 2015 decision is “contrary to law and fact.” As set forth above, OWCP properly found that the medical evidence is insufficiently rationalized to meet appellant’s burden of proof.

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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish right shoulder and cervical spine injuries causally related to an accepted March 1, 2014 scalp laceration.

¹⁰ *Id.*

¹¹ *D.D.*, 57 ECAB 734 (2006).

¹² *Supra* note 9.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 2, 2015 is affirmed.

Issued: October 14, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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