

FACTUAL HISTORY

On July 17, 2015 appellant, then a 56-year-old medical support assistant, filed a traumatic injury claim (Form CA-1) alleging that he injured his lower back on July 16, 2015 when he sat in his office chair and it gave way, went down, and suddenly stopped. He stopped work that day.

OWCP received employing establishment clinic notes. On July 16, 2015 Dr. Gene R. Pellerin, an osteopath, noted a history that appellant had low back discomfort after jolting when he sat in a chair. Examination was normal.

In an Albany Medical Center emergency department note dated July 17, 2015, Dr. Thomas Dittrich, who specializes in emergency medicine, recorded a history that appellant sat in a defective chair and landed on the floor, hitting his bottom, and this caused diffuse low back pain. Cervical spine x-rays and a cervical spine computerized tomography (CT) scan demonstrated degenerative changes at C3-4 through C6-7. Lumbar spine x-rays showed degenerative changes. Dr. Dittrich diagnosed back muscle strain and low back pain. He advised that appellant should be excused from work from July 17 to 20, 2015.

In a July 19, 2015 report, Dr. Pellerin noted a history that appellant hurt his back when his chair broke and he fell. He described cervical spine CT scan findings of degenerative changes at C3-4 through C6-7. Physical examination demonstrated tenderness in the sacral area. Straight leg raising was negative. Dr. Pellerin diagnosed lumbosacral contusion. He and Dr. Saeed Tarokh, an employing establishment physician, advised that appellant could return to work on July 22, 2015 with no restrictions. Appellant did not return to work. A July 22, 2015 note from Dr. Pellerin indicated that appellant was angry that he was told he could return to duty and would seek medical care elsewhere.

The employing establishment checked the chair and could not replicate the fall. In a July 16, 2015 statement, S.G., a coworker, advised that when appellant sat next to her, the chair slid to a lower position, and he stated that his back hurt. She told him to report it to a supervisor.

In August 5, 2015 correspondence, C.T., an employing establishment human resources specialist, noted that appellant submitted a disability slip dated August 5, 2015 in which Dr. Charles J. Buttaci, a Board-certified physiatrist, advised that appellant could not work until after a magnetic resonance imaging (MRI) scan was completed. She then telephoned appellant who insisted that he had not been cleared to return to full duty, and informed her that he planned to see his counsel. C.T. attached a disability slip to a letter dated August 6, 2015, addressed to him, in which she described the medical evidence submitted and forwarded a notice of recurrence claim form (Form CA-2a). She advised appellant that he should submit a report in which Dr. Buttaci explained the causal relationship between appellant's current back condition and the July 16, 2015 incident.

Appellant submitted a recurrence claim (Form CA-2a) on August 17, 2015. He indicated that he had not returned to work since the July 16, 2015 injury due to continued pain. The employing establishment noted that appellant received continuation of pay from July 17 through 21, 2015, and that he was cleared for full-time full duty on July 22, 2015, but had not returned to work.

In an August 5, 2015 treatment note, Dr. Buttaci noted appellant's complaint of back pain and severe sciatica symptoms radiating down his right leg. He reported a history that on July 16, 2015, as appellant sat in a chair, it gave way and dropped one to two feet and then came to an abrupt stop, after which appellant had severe left hip, leg, and back pain that became unbearable. Back examination demonstrated tenderness across the lumbosacral junction with limited flexion and extension. Toe walking was difficult on the left, normal on the right. Sensation was reduced in the left lateral leg, intact on the right, and left Achilles reflex was reduced when compared to the right. Hip range of motion did not produce groin or thigh discomfort. Dr. Buttaci reviewed the x-rays and cervical CT scan. He advised that appellant most likely had a herniated disc. Dr. Buttaci opined that the July 16, 2015 incident caused the condition, and that appellant was totally disabled because he could not sit due to pain. He prescribed medication and requested authorization for a lumbar MRI scan. In a disability slip dated August 11, 2015, Dr. Buttaci advised that appellant could not work.

In correspondence dated September 3, 2015, C.T. notified OWCP that, after appellant was cleared to return to work on July 22, 2015, he indicated that he did not feel well enough to return to work and then submitted additional medical information taking him off work. She related that on August 24, 2015 appellant turned in his identification card and government keys.

By letter dated September 8, 2015, OWCP notified appellant that when his claim was received his injury appeared minor, resulting in minimal time off work, and that the merits of the claim were not formally adjudicated. It informed him that because he had filed a recurrence claim, his claim had been reopened for formal adjudication. OWCP advised appellant of the evidence needed to support his claim.

Appellant thereafter forwarded a brief employing establishment emergency department report dated August 18, 2015 in which Mary Lee, R.N., noted a discharge diagnosis of low back pain and that he was discharged to employee health.

An August 20, 2015 letter from the employing establishment advised that appellant's supervisor had recommended that appellant be terminated effective August 21, 2015 for unacceptable performance, conduct, and attendance. It informed him of his appeal rights. Appellant also submitted evidence regarding an Equal Employment Opportunity (EEO) claim he filed in August 2015 and a disability slip from Dr. Buttaci dated September 15, 2015 advising that appellant could not work.

In an October 7, 2015 statement, appellant indicated that on July 16, 2015, when he sat in his office chair, it went straight down and slammed his tail bone. He maintained that he could no longer sit due to pain and thus could not work, because his job required that he sit all day.

In a December 24, 2015 form report, Dr. Buttaci noted that he last examined appellant on August 5, 2015. He diagnosed sciatica and advised that appellant was totally disabled for the period August 5 to September 14, 2015 and that he could return to work on September 15, 2015.

By decision dated January 12, 2016, OWCP denied appellant's claim. It found that the July 16, 2015 incident occurred as alleged, but that the medical evidence of record was insufficient to establish a causal relationship between the incident and his diagnosed conditions.

Appellant timely requested a hearing with a representative of OWCP's Branch of Hearings and Review. He submitted evidence previously of record.

At the hearing, held on September 13, 2016, appellant described the July 16, 2015 incident, stating that when he sat, the chair slammed down, and he hit his lower back and tailbone. He described his medical treatment, noted that he had filed an EEO claim, and indicated that he had a 30 percent Veterans Administration disability for post-traumatic stress disorder.

In an October 21, 2016 decision, an OWCP hearing representative found that the medical evidence of record was insufficient to establish that appellant's back condition was causally related to the July 16, 2015 employment incident and affirmed the January 12, 2016 decision.

LEGAL PRECEDENT

An employee seeking compensation under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of reliable, probative, and substantial evidence,² including that he is an "employee" within the meaning of FECA and that he filed his claim within the applicable time limitation.³ The employee must also establish that he sustained an injury in the performance of duty as alleged and that his 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 he 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

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁶ 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 employee.⁷ Neither the mere fact that a disease or condition manifests itself during a period

² *J.P.*, 59 ECAB 178 (2007).

³ *R.C.*, 59 ECAB 427 (2008).

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

⁵ *T.H.*, 59 ECAB 388 (2008).

⁶ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁷ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁸

ANALYSIS

It is undisputed that the July 16, 2015 incident occurred as alleged. The Board finds, however, that the medical evidence submitted by appellant is insufficient to establish that this incident resulted in an employment injury.

Medical evidence submitted to support a claim for compensation should reflect a correct history, and the physician should offer a medically sound explanation of how the claimed work event caused or aggravated the claimed condition.⁹ No physician did so in this case.

In an August 5, 2015 treatment note, Dr. Buttaci reported a history that on July 16, 2015, as appellant sat in a chair, it gave way and dropped one to two feet and then came to an abrupt stop, after which appellant had severe left hip, leg, and back pain that became unbearable. He provided findings, advised that appellant most likely had a herniated disc, and opined that the July 16, 2015 incident caused the condition. However, Dr. Buttaci did not adequately explain or describe physiologically how or why the July 16, 2015 employment incident caused appellant's back condition. Moreover, on December 24, 2015 he diagnosed sciatica and indicated that appellant could return to work on September 15, 2016.

The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to a claimant's federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale, and be based upon a complete and accurate medical and factual background of the claimant.¹⁰ The Board finds Dr. Buttaci's opinion of diminished probative value and insufficient to meet appellant's burden of proof.¹¹

The July 17, 2015 lumbar and cervical spine x-rays and the cervical spine MRI scan of the same day are of limited probative value as they did not provide an opinion on the causal relationship of any diagnosed conditions. 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.¹² Likewise, the reports of Dr. Pellerin and Dr. Tarokh, and Dr. Dittrich's emergency department report of July 17, 2015, also failed to include an opinion as to the cause of a diagnosed condition.

⁸ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

⁹ *D.D.*, Docket No. 13-1517 (issued April 14, 2014).

¹⁰ *A.D.*, 58 ECAB 149 (2006).

¹¹ *See M.L.*, Docket No. 14-1128 (issued September 17, 2014).

¹² *Willie M. Miller*, 53 ECAB 697 (2002).

It is appellant's burden of proof to establish that a diagnosed condition is causally related to the July 16, 2015 incident. As none of the medical evidence of record provides the necessary rationale explaining how and why a physician believes that the accepted July 16, 2015 incident resulted in a diagnosed back condition, the evidence of record is insufficient to establish his claim of injury.

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 did not meet his burden of proof to establish an employment-related injury causally related to the accepted July 16, 2015 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the October 21, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 24, 2017
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