United States Department of Labor
Employees' Compensation Appeals Board

R.T., Appellant	)	
	)	**Docket No. 17-0611**
and	)	**Issued: June 2, 2017**
U.S. POSTAL SERVICE, POST OFFICE, Stone Mountain, GA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 18, 2017 appellant filed a timely appeal from August 17 and December 15, 2016 merit decisions 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 his burden of proof to establish neck and back injuries causally related to a July 1, 2016 employment incident.

On appeal, appellant contends that he sustained work-related neck and back injuries.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On July 1, 2016 appellant, then a 53-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that he experienced neck and back pain as a result of a motor vehicle accident while delivering mail on that day. He stopped work on the date of the alleged injury and returned to work on July 5, 2016.

On July 7, 2016 the employing establishment submitted witness statements dated July 1, 2016 describing the alleged incident. Appellant related that his vehicle was stopped when it was hit on the front end by a passing car. A customer related that another driver tried to pass him and ran his vehicle off the road causing him to hit appellant's vehicle. A supervisor noted that he was informed by appellant that he was sideswiped by a customer and that a police officer cited the customer for passing in a nonpassing zone. The employing establishment also submitted a description of appellant's city carrier position and other administrative information.

By letter dated July 15, 2016, OWCP informed appellant of the deficiencies in his claim and requested that he submit medical evidence, including a rationalized medical report from his physician, which explained how the reported work incident caused or aggravated a medical condition.

In a partial medical report dated July 11, 2016, Dr. Matthew M. Richardson, an attending Board-certified physiatrist specializing in pain medicine, noted a history that appellant had been previously treated for an industrial injury involving his neck and back. He indicated that there was evidence of disc pathology in his neck and back that was treated with epidural steroid injections, rehabilitation, and medication. Dr. Richardson provided a history of the July 1, 2016 incident and noted appellant's complaints, including his primary complaint of cervical spine pain. He assessed facet arthropathy without myelopathy or radiculopathy, lumbar and cervical regions, and facet arthropathy, thoracic region. Dr. Richardson noted that appellant continued to work despite his discomfort.

A July 29, 2016 letter from Dr. Richardson's office indicated that appellant was seen that date by Dr. Richardson and that he could return to work on August 1, 2016.

By decision dated August 17, 2016, OWCP denied appellant's traumatic injury claim as the medical evidence of record did not contain a medical diagnosis in connection with the accepted July 1, 2016 work incident.

OWCP received a complete version of Dr. Richardson's July 11, 2016 report, which noted that appellant's back, neck, and right and left lower extremities were aching and throbbing. Appellant's pain level was 9 out of 10. He had no associated numbness, weakness, and catching or giving out. Dr. Richardson noted a history of his social and medical background and reported findings on physical examination. He reiterated his assessment of lumbar and cervical facet arthropathy without myelopathy or radiculopathy and thoracic facet arthropathy.

In a July 29, 2016 follow-up report, Dr. Richardson noted appellant's complaint of back, neck, and mid-back pain and history of his medical treatment. He listed findings on physical examination. Dr. Richardson indicated that appellant had a previous injury with six percent

whole person impairment rating. Appellant now had symptoms on the left versus the right. He also had a history of L4-L5 disc protrusion with high intensity zones on L4-L5 and L5-S1. At a minimum, appellant had at least an exacerbation and aggravation of a preexisting condition and likely an additional component as he now had left-sided symptoms instead of his past right-sided symptoms. In addition, he had new interscapular thoracic spine pain.

On September 15, 2016 appellant requested reconsideration.

By decision dated December 15, 2016, OWCP denied appellant's traumatic injury claim. It modified the August 17, 2016 decision to reflect that the medical evidence submitted did not contain rationalized medical opinion evidence sufficient to establish causal relationship between appellant's diagnosed conditions and the July 1, 2016 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence[2] including that he or she sustained an injury in the performance of duty and that any specific condition or disability from work for which he or she claims compensation is causally related to that employment injury.[3]

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.[4] There are two components involved in establishing the 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.[5]

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[6] The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing causal relationship between the claimed condition and the identified factors.[7] The belief of the claimant that a condition was caused or aggravated by the employment incident is insufficient to establish a causal relationship.[8]

[2] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

[3] *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[4] *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

[5] *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

[6] *John J. Carlone*, 41 ECAB 354 (1989); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

[7] *Lourdes Harris*, 45 ECAB 545 (1994); *see Walter D. Morehead*, 31 ECAB 188 (1979).

[8] *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury caused by the July 1, 2016 employment incident. Appellant has failed to submit medical evidence sufficient to establish neck and back conditions causally related to the accepted employment incident.

Appellant submitted reports from Dr. Richardson. In his July 11 and 29, 2016 reports, Dr. Richardson noted the history of the July 1, 2016 work incident and offered diagnoses that included lumbar, cervical, and thoracic facet arthropathy. He advised that appellant had stiffness after the incident and increased back pain and symptoms. Dr. Richardson noted that appellant had a previous injury with a prior six percent whole person impairment rating and currently had at least an exacerbation and aggravation of a preexisting condition and likely an additional component because he had left-sided symptoms rather than his previous right-sided symptoms. Although he referenced the July 1, 2016 work incident, Dr. Richardson did not clearly explain how or why this incident caused or aggravated the diagnosed medical conditions.[9] The need for medical rationale, or reasoning, is particularly important where the evidence indicates that appellant had a preexisting condition.[10] The Board finds that the evidence from Dr. Richardson is insufficient to establish appellant's claim.

The July 29, 2016 letter from Dr. Richardson's office, noting appellant's disability status, has no probative medical value as the author cannot be identified as a physician.[11]

The Board finds that appellant has failed to submit rationalized probative medical evidence to establish that he sustained neck and back injuries causally related to the July 1, 2016 employment incident. Thus, appellant has not met his burden of proof.

On appeal, appellant contends that he sustained work-related neck and back injuries. For the reasons stated above, the Board finds that the weight of the medical evidence does not establish neck and back conditions causally related to the accepted July 1, 2016 work incident.

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 failed to meet his burden of proof to establish neck and back injuries causally related to a July 1, 2016 employment incident.

[9] *See George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

[10] *E.D.*, Docket No 16-1854 (issued March 3, 2017).

[11] *See Merton J. Sills*, 39 ECAB 572 (1988).

ORDER

IT IS HEREBY ORDERED THAT the December 15 and August 17, 2016 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: June 2, 2017
Washington, DC

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

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

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