United States Department of Labor
Employees' Compensation Appeals Board

F.H., Appellant	)	
and	)	**Docket No. 16-1245**
	)	**Issued: March 3, 2017**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Sarasota, FL, Employer	)	

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

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 25, 2016 appellant filed a timely appeal from a February 4, 2016 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 the case.[2]

ISSUE

The issue is whether appellant has met his burden of proof to establish a lower back and leg injury causally related to a January 13, 2015 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] Appellant filed a timely request for oral argument. By order dated November 9, 2016, the Board denied his request because his arguments could be adequately addressed in a decision based on a review of the case record. *Order Denying Request for Oral Argument,* Docket No. 16-1245 (issued November 9, 2016).

FACTUAL HISTORY

On January 13, 2015 appellant, then a 56-year-old laborer custodian, filed a traumatic injury claim (Form CA-1), alleging that on the same date he was sweeping his area when a poorly stacked pallet fell over dumping letter trays onto his lower back and legs causing him to fall. He stopped work on January 13, 2016.

Appellant was treated in the Department of Veterans Affairs Medical Center on January 13, 2015 by a healthcare provider with an illegible signature, who returned appellant to work on January 14, 2015.

On January 14, 2015 appellant came under the treatment of Dr. Ismet Saifullah, a Board-certified family practitioner, who prescribed bedrest and returned appellant to regular duty on January 22, 2015. In a January 26, 2015 report, Dr. Saifullah indicated that appellant's condition had not improved and he placed appellant on part-time limited duty four hours a day from January 26 to February 28, 2015.

In an authorization for examination and treatment (Form CA-16) dated January 13, 2015, the employing establishment authorized appellant to seek medical care.

On January 26, 2015 the employing establishment offered appellant a part-time job, four hours a day, as a custodian, starting that same day.

By letter dated February 3, 2015, OWCP advised appellant that his claim was originally received as a simple, uncontroverted case which resulted in minimal or no time loss from work. It indicated that his claim was administratively handled to allow medical payments up to $1,500.00. However, the merits of the claim had not been formally adjudicated. OWCP advised that, because appellant had not returned to work in a full-time capacity, his claim would be formally adjudicated. It requested that he submit additional information including a comprehensive medical report from his treating physician explaining how the specific work incidents contributed to his claimed low back and legs injuries.

In an undated statement, appellant indicated that on January 13, 2015, while cleaning area C, boxes of mail fell on his left leg and left foot causing him to fall onto his back and arms. He experienced back, right shoulder, and left leg pain. Appellant submitted a January 13, 2015 witness statement from a person whose signature was illegible who indicated that he observed appellant sweep the left side of the conveyor when a mail pallet with trays fell and struck appellant causing him to fall. The witness saw appellant limping and holding his back.

In an attending physician's report (Form CA-20) dated February 12, 2015, Dr. Saifullah noted that appellant reported that bins containing mail fell off a pallet and hit his leg causing him to fall on his back and left shoulder. She noted that he had service-connected preexisting injuries to his low back, shoulder, and neck. Dr. Saifullah diagnosed back pain, shoulder pain and lumbar radiculopathy. She checked a box marked "yes," that appellant's condition was caused or aggravated by an employment incident. Dr. Saifullah returned him to work light duty four hours per day. In a report of even date, she indicated that appellant's condition did not improve and she continued light-duty work four hours a day from February 12 to March 30, 2015.

In a decision dated March 13, 2015, OWCP denied appellant's claim finding that he did not submit any medical evidence containing a medical diagnosis in connection with the employment incident.

On April 1, 2015 appellant requested an oral hearing which was held before a hearing representative on October 14, 2015. He submitted a March 10, 2015 magnetic resonance imaging (MRI) scan of the lumbar spine with contrast which revealed multilevel discogenic degenerative changes at L5-S1 and paracentral disc protrusion in contact with S1 nerve root. A March 16, 2015 left shoulder MRI scan revealed interval development of a full-thickness rotator cuff tear of supraspinatus tendon, partial undersurface tear of supraspinatus tendon, and minimal progressive degenerative arthrosis at the acromioclavicular joint.

In reports dated March 26 and November 20, 2015, Dr. Saifullah indicated that appellant was injured at work on January 13, 2015. Appellant reported that a container of mail fell off a pallet and hit his left leg causing him to fall on his back and left shoulder. He was treated in the emergency room on January 13, 2015. Dr. Saifullah noted findings of positive straight leg testing, decreased range of motion of the left hip and knee, left lower extremity tenderness secondary to muscle strain, and decreased range of motion of the left shoulder. She noted the results of the MRI scan of the lumbar spine and left shoulder and treated appellant conservatively with anti-inflammatories and Ibuprofen. Dr. Saifullah diagnosed acute exacerbation of chronic neck, back, and shoulder pain and advised that he sustained soft tissue injuries from the fall and boxes landing on his back and shoulder.

In a decision dated February 4, 2016, OWCP's hearing representative affirmed the decision dated March 13, 2015.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish 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 are 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 an occupational disease.[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. 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.[4]

[3] *Gary J. Watling*, 52 ECAB 357 (2001).

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

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.[5]

ANALYSIS

It is undisputed that on January 13, 2015 while performing his duties as a laborer custodian a stacked pallet fell over dumping letter trays onto his back and legs causing him to fall. However, the Board finds that appellant failed to submit sufficient medical evidence to establish that this work incident caused or aggravated his low back and leg condition.

On March 26 and November 20, 2015 Dr. Saifullah indicated that appellant was injured from a fall at work on January 13, 2015. Appellant reported that a container of mail fell off a pallet and hit his left leg causing him to fall on his back, and left shoulder. Dr. Saifullah diagnosed acute exacerbation of chronic neck, back, and shoulder pain and advised that appellant sustained soft tissue injuries, resulting from the fall and boxes landing on his back and shoulder. The Board finds that, although Dr. Saifullah supported causal relationship, she did not provide medical rationale explaining the basis of her conclusory opinion regarding the causal relationship between appellant's back, neck, and shoulder conditions and the accepted work incident.[6] Therefore, these reports are insufficient to meet appellant's burden of proof.

In a February 12, 2015 attending physician's report, Dr. Saifullah noted appellant sustained a back and left shoulder injury when bins containing mail fell off a pallet and hit his leg causing him to fall. She diagnosed back pain, shoulder pain, and lumbar radiculopathy. Dr. Saifullah checked a box marked "yes" that appellant's condition was caused or aggravated by an employment incident. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.[7]

On January 14, 2015 Dr. Saifullah prescribed appellant bedrest and advised that he could resume usual work on January 22, 2015. In reports dated January 26 and February 12, 2015, she noted no improvement in appellant's condition and recommended that he work light duty four hours a day. Dr. Saifullah's reports are insufficient to establish the claim as the physician did not

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

[6] *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).

[7] The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim. *Sedi L. Graham*, 57 ECAB 494 (2006); *D.D.*, 57 ECAB 734 (2006).

provide a history of injury[8] or specifically address whether appellant's employment activities had caused or aggravated a diagnosed medical condition.[9]

Appellant submitted a note dated January 13, 2015 from a healthcare provider whose signature was illegible, who noted that appellant was treated as an outpatient and could return to work on January 14, 2015. However, this person's signature is illegible and there is no indication of who signed this report. The Board has held that medical reports lacking proper identification do not constitute probative medical evidence.[10]

The remainder of the medical evidence, including diagnostic test reports, is of limited probative value as it does not provide an opinion on the causal relationship between the January 13, 2015 work incident and appellant's diagnosed medical conditions.[11]

Consequently, appellant has failed to submit sufficient medical evidence to establish that appellant's work incident on January 13, 2015 caused or aggravated a diagnosed medical condition.

The Board notes that the record contains a January 13, 2015 CA-16 in which the employing establishment authorized medical treatment. Ordinarily, where the employing establishment authorizes treatment of a job-related injury by providing the employee a properly executed CA-16 form,[12] OWCP is under contractual obligation to pay for the medical expenses.[13] The record does not indicate whether the issue of appellant's incurred medical expenses pursuant to this form has been addressed. The Board finds that upon return of the case record, this matter should be addressed.

On appeal appellant asserts that the medical evidence of record supported that he sustained a lower back injury at work when a poorly stacked pallet fell over dumping letter trays onto his back and legs. He further asserted that his doctor was a qualified physician and the medical records provided a specific diagnosis of his condition. As found above, the medical evidence does not establish that appellant's diagnosed conditions are causally related to the accepted conditions. Appellant has failed to meet his burden of proof.

[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] *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).

[10] *See R.M.*, 59 ECAB 690 (2008); *D.D.*, 57 ECAB 734 (2006).

[11] *Supra* note 9.

[12] *See Val D. Wynn*, 40 ECAB 666 (1989); *see also* Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3(a)(3) (February 2012).

[13] 5 U.S.C. § 8103; 20 C.F.R. § 10.304. *See L.B.*, Docket No. 10-469 (issued June 2, 2010); *see also* Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3(a)(3) (February 2012).

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 a back and leg injury was causally related to a January 13, 2015 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the February 4, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 3, 2017
Washington, DC

Christopher J. Godfrey, 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