



## **FACTUAL HISTORY**

On October 26, 2015 appellant, then a 67-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 24, 2015 he injured his lower back while in the performance of duty. He noted that he carried a 30-pound mailbag. In an attached October 26, 2015 statement, appellant related that he felt lower back pain half way through his route on October 24, 2015, but that he was able to finish his route. The next day, however, his back pain had intensified and he struggled to get out of bed.

In an October 26, 2015 report, Dr. Charles Brian Tang, Board-certified in occupational medicine, noted appellant's history of injury. He indicated that x-rays of appellant's lumbar spine were negative for fractures. Dr. Tang diagnosed sprain of ligaments of lumbar spine and recommended physical therapy. In subsequent progress reports and duty status reports (Form CA-17) dated November 2 through December 28, 2015, Dr. Tang diagnosed lumbosacral strain and provided work restrictions.

In a development letter dated January 8, 2016, OWCP noted that appellant was claiming a traumatic injury as a result of carrying satchels of mail on October 24, 2015. It advised him of the deficiencies in his claim and requested additional factual and medical evidence, including a well-rationalized medical report from a physician which contained objective findings and an opinion of how the incident caused or aggravated the claimed condition. OWCP also provided the definitions of a traumatic injury and an occupational disease and requested that appellant clarify which type of injury he was claiming.

In progress reports and CA-17 forms dated January 11 and 25, 2016, Dr. Tang continued to diagnose lumbosacral strain and provide work restrictions.

By decision dated February 12, 2016, OWCP denied appellant's traumatic injury claim. It found that the medical evidence of record was insufficient to establish that his diagnosed medical condition was causally related to the accepted October 24, 2015 employment incident.

In reports dated February 4 through May 19, 2017, Dr. Shamel Hashish, a Board-certified physiatrist, diagnosed strain of muscle, fascia, and tendon of lower back and lumbar radiculopathy and he also provided work restrictions. In his February 4, 2016 progress note, he provided an impression of lumbar sprain, sacroilitis, and lumbar radiculopathy. Dr. Hashish noted that appellant gradually developed low back pain until October 24, 2014 when the pain became severe. He opined that the October 24, 2015 employment injury occurred as a result of cumulative strain on the back because appellant carried mail using a satchel.

In a June 22, 2016 statement, appellant indicated that his injury gradually occurred over a period of time. He also noted that he did not wish to pursue his traumatic injury claim. In a July 20, 2016 statement, appellant responded to OWCP's questions. He attributed his back condition to loading and delivering large and heavy boxes, delivering mail with two satchels because of heavy mail volume, and walking his route with no cart or dolly. Appellant reiterated that his back condition occurred gradually over time.

A July 25, 2016 magnetic resonance imaging (MRI) scan of appellant's lumbar spine indicated disc herniation and bilateral facet arthropathy at L1-2, L2-3, L5-S1; disc bulges at L3-4, L4-5; severe scoliosis of the lumbar spine; lateral listhesis of L2 on L3 and L4 on L5, L2-3 disc herniation and bilateral facet arthropathy; possibly an osseous lesion; and edematous changes at the anterior superior endplate of L2.

A July 29, 2016 electromyogram and nerve conduction velocity (EMG/NCV) of appellant's lower extremities reported findings suggestive of underlying peripheral polyneuropathy affecting motor and sensory fibers and a superimposed chronic radiculopathy of proximal nerve root involving the L4, L5, and S1 nerves.

An August 29, 2016 computerized tomography (CT) scan of appellant's lumbar spine revealed multilevel degenerative spondyloarthropathy with disc bulges and facet arthropathy resulting in canal stenosis and neural foraminal narrowing; unilateral left spondylosis at L5; and sacroiliac joint arthroplasty.

In an August 24, 2016 report, Dr. Hosea Brown, a Board-certified internist, noted that appellant had worked as a letter carrier since 2007. In the past year, the employing establishment had contracted with Amazon, additional heavy parcels were added to appellant's route, and he noticed progressively increasing back pain. Dr. Brown described appellant's daily duties of casing mail, pulling and bundling mail into trays, loading and lifting trays and parcels onto a hamper, and loading the mail into his postal vehicle. He also described appellant's duties on his delivery route. Dr. Brown noted that appellant complained of low back injury due to carrying two loaded satchels over each shoulder and walking on uneven surfaces. He reported examination findings and his review of diagnostic testing. Dr. Brown diagnosed kyphoscoliosis (permanent aggravation); degenerative joint disease, lumbosacral spine (permanent aggravation); lumbar intervertebral disc syndrome without myelopathy; and lumbosacral radiculopathy as documented by physical examination and EMG/NCV studies. He explained that carrying and lifting heavy packages as well as carrying a satchel or double satchel with heavy packages for approximately six to eight hours on a daily basis increased the biomechanical load to appellant's lumbar spine and caused pathological damage as noted on his radiological studies. Dr. Brown opined that such exposure accelerated and aggravated the degenerative changes of his lumbar spine, contributed to progressive lumbar intervertebral disc herniation, and caused a lumbar intervertebral disc syndrome and lumbosacral radiculopathy and permanently aggravated appellant's scoliosis and his underlying kyphoscoliosis. He further opined that it was medically reasonable to infer a causal relationship between appellant's extensive injuries to his lumbar spine and the performance of his duties as a city letter carrier throughout his nine-year employment history.

On November 15, 2016 appellant requested reconsideration.

By decision dated February 8, 2017, OWCP denied modification of its February 12, 2016 decision. It noted that appellant was now claiming an occupational disease due to loading and lifting boxes of various sizes and satchels of mail over an extended period of time and that these were accepted employment factors. OWCP concluded that the medical evidence was still insufficient to establish causal relationship between the diagnosed medical conditions and the established work factors.

On May 31, 2017 appellant requested reconsideration.

In an October 7, 2016 report, Dr. James T. Tran, a Board-certified neurosurgeon, noted examination findings and his review of diagnostic studies. He diagnosed spinal stenosis of the lumbar region with neurogenic claudication, lumbar disc degeneration, aggravation, lumbar disc displacement; connective tissue and disc stenosis of intervertebral foramina of lumbar region; and osseous stenosis of neural canal of lumbar region. Dr. Tran noted that appellant had been working as a letter carrier from 2007 to the present. He discussed appellant's work duties, including casing and delivering mail, the biomechanical movements involved in such tasks, and the effect on the lumbar spine. Dr. Tran noted that on October 24, 2015 appellant delivered his route and had soreness in the low back, which was not unusual after a long day at work. The following morning he had severe low back pain that prevented him from getting out of bed. Dr. Tran explained that in the setting of lumbar spinal stenosis at L1-2, L2-3, L3-4, L4-5, and L5-S1, the act of appellant delivering his route while carrying a mail satchel caused extension and twisting of lumbosacral spine in the low back. The twisting of low back and force exerted on to the lumbar spine from extension of low back caused disengagement of facet joints in the lumbar spine at the above areas. The disengagement of lumbar facet joints then exerted pressure or force on the lumbar discs at the above areas and caused disc bulging and compression of lumbar nerve roots, which resulted in low back pain. Based on repetitive job duties on a daily basis, Dr. Tran opined that appellant's injuries occurred overtime and culminated on October 24, 2014. He opined, based on physical examination, review of the medical record, and review of the diagnostic studies, that it was medically reasonable to infer causation between appellant's repetitive job duties and his low back injury.

In a May 30, 2017 progress report, Dr. Brown reported that appellant was working one to eight hours daily with restrictions depending on the availability of work and that he had been evaluated by Dr. Tran. He provided examination findings and diagnoses, and thereafter recommended that appellant continue to work in a modified capacity with restrictions.

By decision dated August 29, 2017, OWCP denied modification of its February 8, 2017 decision.

On May 15, 2018 appellant requested reconsideration.

In a May 2, 2018 report, Dr. Brown indicated that the current claim was for an occupational injury. He opined that the years of carrying and delivering heavy packages to residential locations were responsible for appellant's back conditions. Dr. Brown reiterated his prior explanations of the biomechanical movements involved in the repetitive lifting of heavy packages when performing mail delivery on appellant's lumbar spine as well as the increased biomechanical workload associated with heavy satchels. He also discussed appellant's diagnostic testing and indicated that the increased biomechanical load associated with heavy packages and a satchel caused and permanently aggravated appellant's diagnosed conditions. Dr. Brown concluded that causation was clearly established on the basis of both direct causation and permanent aggravation.

By decision dated August 1, 2018, OWCP denied modification of its prior decision.

## 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 timely filed within the applicable time limitation period of FECA,<sup>3</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> 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.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>6</sup>

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.<sup>7</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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 claimant.<sup>8</sup>

## ANALYSIS

The Board finds that this case is not in posture for decision.

While appellant initially filed a claim for traumatic injury, appellant subsequently clarified that occupational factors over the course of years, namely carrying a satchel during the delivery of

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<sup>3</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *K.M.*, Docket No. 15-1660 (issued September 16, 2016).

<sup>6</sup> *C.D.*, Docket No. 17-2011 (issued November 6, 2018); *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

<sup>7</sup> *M.B.*, Docket No. 17-1999 (issued November 13, 2018).

<sup>8</sup> *M.L.*, Docket No. 18-1605 (issued February 26, 2019).

mail, caused his diagnosed lumbar conditions. OWCP accepted that the alleged occupational factors occurred as alleged.

The Board finds that, although the medical evidence is insufficiently rationalized to establish that appellant sustained a work-related condition, the medical reports of record are generally supportive that his accepted employment factors caused or aggravated his diagnosed conditions.<sup>9</sup>

In a February 4, 2016 report, Dr. Hashish provided an impression of lumbar sprain, sacroilitis and lumbar radiculopathy. He noted that appellant had gradually developed low back pain. Dr. Hashish opined that appellant's lumbar conditions occurred as a result of cumulative strain on the back due to appellant's use of a satchel while delivering mail.

Dr. Brown, in his August 24, 2016 report, explained that appellant's diagnostic studies confirmed pathologic damage to appellant's lumbar spine. He related that appellant's employment duties over the course of his nine-year employment history required that he carry and lift heavy packages and a satchel daily which increased the biomechanical load to his lumbar spine, and accelerated and aggravated the degenerative changes in his lumbar spine.

Similarly, Dr. Tran, in his October 7, 2016 report, diagnosed lumbar conditions and opined that appellant's conditions occurred over a period of time and culminated on October 24, 2014. He explained that appellant had delivered mail carrying a satchel since 2007. This activity caused extension and twisting of the low back and exerted force on the lumbar spine, which caused disengagement of facet joints in the lumbar spine, which then exerted pressure or force on the lumbar discs, which caused disc bulging and compression of the lumbar nerve roots.

While none of these reports were completely rationalized, they were consistent in indicating that appellant sustained an employment-related lumbar condition. There is also no opposing medical evidence.<sup>10</sup>

It is well established that proceedings under FECA are not adversarial in nature and, while the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence to see that justice is done.<sup>11</sup> Thus, while the reports from Drs. Hashish, Tran, Brown, and Tang are insufficient to meet appellant's burden of proof to establish his claim, they raise an inference of causal relationship between the accepted factors of employment and the diagnosed condition and are sufficient to require further development of the medical record.<sup>12</sup>

On remand OWCP shall develop the claim by referring appellant, a statement of accepted facts, and the medical evidence of record to an appropriate specialist to obtain a rationalized

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<sup>9</sup> *J.S.*, Docket No. 13-2022 (issued July 28, 2014).

<sup>10</sup> *D.G.*, Docket No. 18-0043 (issued May 7, 2017).

<sup>11</sup> *T.H.*, Docket No. 18-1585 (issued March 22, 2019); *Phillip L. Barnes*, 55 ECAB 426 (2004).

<sup>12</sup> *D.W.*, Docket No. 17-1884 (issued November 8, 2018); see *Robert A. Redmond*, 40 ECAB 796, 801 (1989).

opinion regarding whether his lumbar conditions have been caused or aggravated by the accepted factors of his federal employment. After such further development as OWCP deems necessary, it shall issue a *de novo* decision.

**CONCLUSION**

The Board finds that this case is not in posture for decision.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 1, 2018 decision of the Office of Workers' Compensation Programs is set aside and this case is remanded for further proceedings consistent with this opinion.

Issued: July 8, 2019  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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