United States Department of Labor
Employees' Compensation Appeals Board

E.C., Appellant	)	
and	)	**Docket No. 18-0274**
	)	**Issued: January 6, 2020**
U.S. POSTAL SERVICE, POST OFFICE, Enfield, CT, 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 November 20, 2017 appellant filed a timely appeal from a September 20, 2017 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 this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish that his back conditions and/or bilateral inguinal hernias are causally related to the accepted July 19, 2017 employment incident.

FACTUAL HISTORY

On July 26, 2017 appellant, then a 42-year-old city carrier assistant (CCA), filed a traumatic injury claim (Form CA-1) alleging that on July 19, 2017 he felt something pull in the

[1] 5 U.S.C. § 8101 *et seq.*

lower left side of his back when he lifted and carried a box while in the performance of duty. He stopped work on July 19, 2017.

In reports dated July 20 and 31, 2017, Dr. David M. Kruger, a Board-certified orthopedic surgeon, noted that appellant initially experienced back pain following an injury 20 years ago. He explained that appellant fell down stairs on September 13, 2016 and was again reinjured on March 17, 2017 when he slipped and fell on ice with the return of the same low back pain. Dr. Kruger then noted that he reinjured himself on July 19, 2017 while twisting to move a package at work when he felt a "pop" in his back with immediate onset of increased low back pain. He diagnosed low back pain and lumbar disc degeneration. Dr. Kruger explained that appellant's current condition was an exacerbation of an old injury from September 13, 2016 and March 17, 2017, super imposed by a new work injury. He saw appellant on August 7, 2017 and diagnosed chronic left-sided low back pain with left-sided sciatica. Dr. Kruger completed a Form CA-17 on August 7, 2017 in which he noted that appellant experienced low back pain after lifting a box on July 19, 2017. OWCP also received a separate August 7, 2017 Form CA-17, in which Dr. Kruger noted that appellant indicated that he had a fall while descending stairs. He indicated that appellant could resume part-time work on August 8, 2017.

In a July 20, 2017 Form CA-17, Dr. George W. Moore, Board-certified in occupational medicine, advised that appellant pulled a back muscle while carrying a parcel. He noted that appellant had pain on flexion and extension of the lumbar spine. Dr. Moore diagnosed lumbago and responded "no" with regard to whether appellant was able to resume work.

In an August 10, 2017 letter, the employing establishment controverted the claim. It noted that appellant had two prior claims for low back injury, and that he remained on limited duty as a result of these previous claims.[2] Appellant's supervisor alleged that appellant had only filed the present claim because he was upset with management regarding his assigned route. He also noted discrepancies with regard to the description of the injury, which included that in an August 7, 2017 report wherein appellant indicated that he fell while descending stairs. Appellant's supervisor provided an undated letter, received on August 10, 2017, in which he noted that, on July 19, 2017, appellant was directed to throw and sort parcels, which he agreed to do. However, after approximately 10 minutes, appellant informed him that he was feeling sore and indicated that it was a flare up of prior back injuries.

In an August 14, 2017 report, Dr. Moore noted that appellant described the incident as occurring while carrying a 50- to 60-pound box, and he felt something tweak in his back and groin. He explained that appellant's primary problem was pain located in the lower back, right groin, left groin, which appellant felt was not improving. Dr. Moore also indicated that appellant informed him that the pain ran down the bilateral posterior leg to the foot. He also noted that appellant had a history of small herniated discs in 2016. Dr. Moore provided appellant's physical examination findings and diagnosed sprain of the ligaments of the lumbar spine, initial encounter, and bilateral inguinal hernia, without obstruction or gangrene, not specified as recurrent. He opined that the cause of this problem "appears to be in part, related to work activities." On August 14, 2017

[2] Appellant's prior traumatic injury claims were identified as OWCP File No. xxxxxx526 and OWCP File No. xxxxxx151. OWCP accepted lumbar strain and abrasions of the left elbow and knee in File No. xxxxxx526. Appellant's prior claims have not been administratively combined with the current claim.

Dr. Moore also completed Part B of an authorization for examination and/or treatment (Form CA-16), in which he indicated by checking a box marked "yes" that appellant's bilateral hernia condition was caused or aggravated by the alleged employment incident. OWCP also received a Form CA-17 that Dr. Moore completed on August 14, 2017. Dr. Moore diagnosed bilateral hernia and related a history of injury of "pulled back carrying parcel."

In a development letter dated August 16, 2017, OWCP informed appellant that additional factual and medical evidence needed to support his claim. It requested that he complete a questionnaire to substantiate how the injury occurred. OWCP afforded appellant 30 days to submit the necessary evidence.

In an August 17, 2017 statement, the employing establishment again controverted the claim reiterating prior arguments as well as arguing that it questioned how appellant would have sustained injury "lifting heavy boxes" since he had a 10-pound lifting limitation. It also controverted whether his hernia condition was employment related.

OWCP subsequently received an August 22, 2017 Form CA-17 from Dr. Kruger, who indicated that appellant pulled his back while carrying a parcel.

Appellant provided a narrative statement dated September 11, 2017, describing the July 19, 2017 incident. He indicated that he lifted a parcel that weighed between 50 and 60 pounds and was in the process of carrying it to the proper bin that he felt a tweak in his back. Appellant noted that he immediately informed his supervisor that he felt pain in his back and his supervisor responded by saying he was going to "dispute his grievance for sorting parcels." He also described his prior back injuries which included a minor back injury 20 years ago, which he indicated resolved within six months, and another work injury in September 2016 which occurred when he fell.

In a July 20, 2017 report, received by OWCP on September 14, 2017, Dr. Kruger explained that appellant was originally evaluated in his office on January 9, 2017. He noted that appellant had experienced low back pain at work 20 years prior. Dr. Kruger explained that x-rays of the lumbosacral spine revealed degenerative changes primarily at L5-S1. He advised that appellant indicated that he was feeling well until September 13, 2016, when he fell down stairs at work and did a "somersault" in midair. Dr. Krueger also noted that appellant was reinjured on March 17, 2017 when he slipped on ice while working. Additionally, he explained that appellant hurt his back a third time on July 19, 2017 while twisting and trying to move a package at work. Dr. Kruger related that appellant felt a pop in his back. He noted that a magnetic resonance imaging (MRI) scan of his lumbosacral spine was obtained on November 25, 2016, which revealed degenerative disc changes with minor disc bulge at L4-5 and a diffuse disc bulge at L5-S1. Dr. Kruger indicated that other diagnoses could include: multiple bulging discs, lumbar spondylosis or degenerative disc disease. He opined: "with reasonable medical probability I believe he developed back pain after falling down a flight of stairs, slipping on ice and twisting while lifting a package while at work. Clearly this could happen to a radiographically normal spine, but in his case it happened one with radiographic evidence of degeneration. Regardless, it is common sense that these events can lead to pain and disability."

By decision dated September 20, 2017, OWCP accepted that the July 19, 2017 employment incident occurred as alleged, but denied the claim as the evidence was insufficient to establish that the diagnosed medical conditions were causally related to the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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,[4] 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.[5] 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.[6]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether fact of injury has been established.[7] First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged.[8] Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.[9]

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.[10] 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 incident. 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

[3] *Id.*

[4] *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] *S.C., id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[6] *S.C., id.*; *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[7] *G.E.*, Docket No. 19-1190 (issued November 26, 2019); *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

[8] *Id.*

[9] *Id.*

[10] *J.G.*, Docket No. 19-1116 (issued November 25, 2019); *T.H.*, 59 ECAB 388, 393 (2008).

by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment incident identified by the claimant.[11]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that his back conditions and/or bilateral inguinal hernias are causally related to the accepted July 19, 2017 employment incident.

In reports dated July 20 and 31, 2017, Dr. Kruger noted that appellant initially experienced back pain from an injury 20 years ago. He explained that appellant fell down stairs on September 13, 2016 and was reinjured on March 17, 2017 when he slipped and fell on ice with the return of the same low back pain. Dr. Kruger then noted that appellant reinjured himself again on July 19, 2017 while twisting to move a package at work. He felt a "pop" in his back with immediate onset of increased low back pain. Dr. Kruger diagnosed low back pain and lumbar disc degeneration. He explained that it was an exacerbation of an old injury from September 13, 2016 and March 17, 2017, superimposed on a new work injury. Dr. Kruger also provided a narrative report, from an examination on July 20, 2017 which was received on September 14, 2017. He explained that appellant was originally evaluated in his office on January 9, 2017. Dr. Kruger noted appellant's history of prior injuries and then explained that appellant hurt his back a third time on July 19, 2017 while twisting and trying to move a package at work and felt a pop in his back. The Board notes that Dr. Kruger's description of the incident on July 19, 2017 contains a variation on appellant's version of the history of injury, in that Dr. Kruger added that appellant was twisting to move a package, while appellant indicated that he was injured while carrying a large parcel. Dr. Kruger also referred to an MRI scan from November 25, 2016, which revealed degenerative disc changes with minor disc bulge at L4-5 and a diffuse disc bulge at L5-S1. He opined that "with reasonable medical probability I believe he developed back pain after falling down a flight of stairs, slipping on ice and twisting while lifting a package while at work. Clearly this could happen to a radiographically normal spine, but in his case it happened one with radiographic evidence of degeneration. Regardless, it is common sense that these events can lead to pain and disability." These reports from Dr. Kruger are of limited probative value and are insufficient to establish appellant's claim as he did not provide a rationalized opinion explaining how, physiologically, the accepted employment incident of lifting and carrying a parcel on July 19, 2017 caused the diagnosed conditions.[12] The need for a rationalized medical opinion based on medical rationale is especially important in this case as the evidence suggests that appellant had preexisting medical conditions.[13]

Dr. Kruger also saw appellant on August 7, 2017 and diagnosed left-sided low back pain and left-sided sciatica. He also completed a Form CA-17 on August 7, 2017 wherein he noted that appellant lifted a box on July 19 2017 and experienced back pain. The Board has held that pain is

[11] *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[12] *J.G.*, *supra* note 10; *see also A.B.*, Docket No. 16-1163 (issued September 8, 2017).

[13] *See M.E.*, Docket No. 18-0940 (issued June 11, 2019); *E.V.*, Docket No. 17-0417 (issued September 13, 2017).

a symptom and not a compensable medical diagnosis.[14] Furthermore, while Dr. Kruger noted a correct history of injury in the August 7, 2017 CA-17 report, he did not provide an opinion on causal relationship between appellant's diagnosed medical conditions and the accepted employment incident. Therefore, his reports are of no probative value and insufficient to establish appellant's claim.[15]

Dr. Moore also provided several reports. They included a July 20, 2017 Form CA-17 report in which he advised that appellant pulled his back muscle carrying a parcel. Dr. Moore diagnosed lumbago. However, he did not offer an opinion on causal relationship. Medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[16]

In an August 14, 2017 report, Dr. Moore noted that appellant described the incident as occurring while carrying a 50- to 60-pound box, and he felt something tweak in his back and groin. He examined appellant and diagnosed: sprain of the ligaments of the lumbar spine, initial encounter, and bilateral inguinal hernia, without obstruction or gangrene, not specified as recurrent. Dr. Moore opined that the cause of appellant's condition "appears to be in part, related to work activities." The Board finds that this opinion regarding the cause of appellant's medical conditions is speculative and equivocal in nature, and therefore insufficient to establish causal relationship.[17] Dr. Moore also completed a Form CA-16 on August 14, 2017 wherein he indicated by checking a box marked "yes" that appellant's bilateral hernia condition was caused by the employment incident. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion has little probative value and is insufficient to establish a claim.[18]

In an August 14, 2017 Form CA-17 report Dr. Moore, diagnosed bilateral hernias and indicated that appellant pulled his back while carrying a parcel, he again provided no opinion on causal relationship. As such, Dr. Moore's opinion is of no probative value and, thus, insufficient to establish appellant's claim.[19]

Because appellant has not submitted rationalized medical evidence establishing a causal relationship between his claimed conditions and the accepted July 19, 2017 employment incident, the Board finds that he has not met his burden of proof to establish his traumatic injury claim.

[14] *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

[15] *R.Z.*, Docket No. 19-0408 (issued June 26 2019); *P.S.*, Docket No. 18-1222 (issued January 8, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

[16] *Id.*

[17] *F.C.*, Docket No. 19-0594 (issued August 13, 2019); medical opinions that are speculative or equivocal in character are of little probative value. *See Kathy A. Kelley*, 55 ECAB 206 (2004).

[18] *See M.O.*, Docket No. 18-1056 (issued November 6, 2018); *Deborah L. Beatty*, 54 ECAB 340 (2003).

[19] *Supra* note 15.

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 that his back conditions and/or bilateral inguinal hernias are causally related to the accepted July 19, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the September 20, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 6, 2020
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