

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EUGENE SZUMSKI and DEPARTMENT OF THE ARMY,
REGIONAL SUPPORT COMMAND, Wilkes-Barre, PA

*Docket No. 01-675; Submitted on the Record;
Issued December 19, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained an injury in the performance of duty on July 22, 1999.

On July 23, 1999 appellant, then a 39-year-old equipment inspector, filed a claim alleging that he sustained a back injury on July 22, 1999 while lifting a garage door in the performance of duty. The record indicates that appellant had a prior claim for a back injury on January 22, 1997.¹

By decision dated January 10, 2000, the Office of Workers' Compensation Programs denied the claim on the grounds that the medical evidence was insufficient to establish an injury in the performance of duty.

The Board finds that appellant has not met his burden of proof to establish an injury in the performance of duty on July 22, 1999.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing that he or she sustained an injury while in the performance of duty.³ In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally "fact of injury" consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the

¹ That claim was accepted for lumbosacral strain under OWCP File No. A3-224449.

² 5 U.S.C. §§ 8101-8193.

³ *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

employment incident caused a personal injury and generally this can be established only by medical evidence.⁴

The Office has accepted that the lifting incident occurred as alleged on July 22, 1999. The medical evidence of record, however, consists primarily of incomplete form reports that are of diminished probative value. There is, for example, an undated Form CA-16 (authorization for examination and/or treatment), from a physician whose signature is illegible, diagnosing lumbago and lumbosacral disc disease. The report states that the first examination, July 23, 1999, describes findings as “exacerbation of disc disease,” and checks a box “yes” that the condition found was causally related to employment.⁵ The Board has held that, the checking of a box “yes” in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.⁶

The form report briefly notes a history of degenerative disc disease, without providing further detail. A statement that the patient injured his back lifting and a brief description of the findings as an exacerbation of disc disease is not sufficiently detailed to be of significant probative value. The Board has held that medical evidence must be in the form of a reasoned opinion by a qualified physician based on a complete and accurate factual and medical history.⁷ A medical opinion in this case should include an accurate factual and medical background and a description of the nature and extent of any aggravation of a preexisting condition by the July 22, 1999 employment incident.

The Office, by letter dated November 15, 1999, requested that appellant submit a narrative report that provided a reasoned medical opinion on causal relationship with the July 22, 1999 employment incident. The record does not contain a report providing an accurate background and a medical opinion on causal relationship between a diagnosed condition and the July 22, 1999 employment incident. The Board accordingly finds that appellant did not meet his burden of proof in this case.

⁴ See *John J. Carlone*, 41 ECAB 354, 357 (1989).

⁵ The history provided on the reverse of the form stated that appellant had back pain due to lifting a garage door.

⁶ See *Barbara J. Williams*, 40 ECAB 649, 656 (1989).

⁷ *Robert J. Krstyen*, 44 ECAB 227, 229 (1992).

The decision of the Office of Workers' Compensation Programs dated January 10, 2000 is affirmed.

Dated, Washington, DC
December 19, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member