

proper lifting procedures. Appellant stopped work that same day and did not return. Submitted with her claim were copies of a Physician's Record and Discharge Instruction from New York Presbyterian Hospital which diagnosed low back pain, and two prescription slips dated September 20, 2004 from Dr. Jose L. Fernandez, a Board-certified internist in emergency medicine.

By letter dated September 29, 2004, the Office advised appellant that the information submitted with her claim was insufficient to establish that she sustained an injury on September 20, 2004. Appellant was requested to submit physicians reports for any treatment rendered in connection with the September 20, 2004 incident which contained the dates of examination and treatment, a history of injury given by her to a physician, a detailed description of any findings, the results of all x-rays and laboratory tests, a diagnosis and course of treatment followed and a physician's opinion supported by a medical explanation as to how the reported work incident caused or aggravated the claimed injury. The Office explained that the physician's opinion was crucial to her claim and allotted appellant 30 days within which to submit the requested information.

In a September 21, 2004 form report, Dr. Elizabeth White, a Board-certified internist, diagnosed lower back pain. She opined, by placing a check mark in the appropriate box, that she believed appellant's condition was caused or aggravated by the employment activity of lifting buckets of mail on September 20, 2004.

A three-page facsimile dated October 21, 2004 from The Mount Sinai Sports Therapy Center was also received. This included the cover sheet, a copy of the billing department's request for authorization for physical/occupational therapy and an October 11, 2004 prescription form signed by Dr. Parag Sheth, a Board-certified physiatrist, which diagnosed a lumbar strain and recommending physical therapy services.

By decision dated November 4, 2004, the Office denied appellant's claim, finding that there was no evidence that she sustained an injury in connection with the alleged work incident.²

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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.⁴ These are essential

² The Office received new information following the issuance of its November 4, 2004 decision. The Board's jurisdiction on appeal is limited to a review of the evidence which was in the case record before the Office at the time of its final decision; *see* 20 C.F.R. § 501.2(c). Therefore, the Board is precluded from reviewing this evidence.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a “fact of injury” has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁶ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷

ANALYSIS

As the Office found in its November 4, 2004 decision, the evidence of record supports the fact that the employment incident of September 20, 2004 occurred at the time, place and in the manner alleged. However, appellant has not established that she sustained an injury in the performance of duty related to the accepted incident.

The Office denied appellant’s claim stating that the evidence of record did not support a medical condition resulting from the employment incident. The medical documentation from the New York Presbyterian Hospital diagnosed low back pain. Dr. White also diagnosed lower back pain which she opined was causally related to the September 20, 2004 incident by checking “yes” to the question of whether the condition found was caused or aggravated by an employment factor. However, the Board has held that a physician’s form report which merely checks the box marked “yes” to the inquiry as to whether the condition for which treatment is rendered is causally related to the history of injury as given, is of diminished probative value as it constitutes a conclusion without the benefit of any medical rationale.⁸ The October 21, 2004 facsimile received from Mount Sinai Sports Therapy Center contained an October 11, 2004 physiatrist prescription form in which Dr. Sheth diagnosed a lumbar strain. However, Dr. Sheth provided no opinion on the causal relationship of appellant’s diagnosed condition. There is insufficient evidence of record to establish that appellant’s lumbar strain is causally related to the accepted incident of September 20, 2004. Appellant did not submit a medical report from a physician which provides a history of injury or addresses how the employment incident of September 20, 2004 caused or aggravated her back condition.

Accordingly, appellant did not submit sufficient reasoned medical evidence establishing that a diagnosed condition is causally related to the September 20, 2004 employment incident. Consequently, she has failed to meet her burden of proof to establish her claim.

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *Id.*

⁸ *Barbara J. Williams*, 40 ECAB 649 (1989).

CONCLUSION

Appellant has not met her burden of proof in establishing that she sustained a low back injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 4, 2004 is affirmed.

Issued: July 18, 2005
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board