

**United States Department of Labor
Employees' Compensation Appeals Board**

M.G., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Bradenton, FL, Employer**

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**Docket No. 06-1313
Issued: September 25, 2006**

Appearances:
Vivian L. Perez, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 23, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' April 25, 2006 merit decision denying his claim that he sustained an employment-related injury on March 10, 2004. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty on March 10, 2004.

FACTUAL HISTORY

This is the second appeal in this case. The Board issued a decision on November 28, 2005 in which it affirmed the Office's denial of appellant's claim on the grounds that he established a March 10, 2004 employment incident but did not submit medical evidence showing

that he sustained an injury due to the incident.¹ The Board found that appellant established an employment incident on March 10, 2004 when he lifted a tray of mail weighing 25 to 30 pounds from the back of his vehicle. He lifted with both arms to head height and experienced a pop or snap in his neck, shoulder and upper back on the right when he twisted and turned his upper body to the left.² The Board further found that appellant had not submitted sufficient medical evidence to establish that he sustained injury due to the accepted March 10, 2004 employment incident because the reports of Dr. Omar Inaty, an attending chiropractor, did not constitute medical evidence and the reports of Dr. Philip Talley, a Board-certified neurosurgeon, and Dr. David P. Kalin, a Board-certified orthopedic surgeon, did not contain an opinion on causal relationship. The facts and circumstances of the case up to that point are set forth in the Board's prior decision and are incorporated herein by reference.

Appellant submitted a February 11, 2006 report in which Dr. Sanjay Yathiraj, an attending Board-certified neurologist, stated:

“This is a letter to the labor board regarding the injuries [appellant] sustained in March 2004. [Appellant's] job involved repetitive motions in regards to the injuries that he sustained in 2000. This was once again exacerbated by injuries that he sustained in March 2004 with repetitive motion on row. His lifting heavy trays of mail caused an aggravation of the initial injuries that occurred in June 2000.”³

By decision dated April 25, 2006, the Office denied appellant's claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained an injury in the performance of duty on March 10, 2004.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act⁴ has the burden of establishing the essential elements of his 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.⁵ These are the essential

¹ Docket No. 05-1765 (issued November 28, 2005). On March 11, 2004 appellant, then a 55-year-old mail carrier, filed a traumatic injury claim alleging that he sustained injury to his neck, shoulders and chest at work on March 10, 2004. Regarding the cause of the injury, he stated, “Repetitious use of seat belt, hand brake and door -- increased street time twisting and turning head and shoulder.” It appears that appellant previously sustained injury at work in June 2000 when a palm tree hit his neck and back and caused him to fall forward, but the record contains only brief references to this apparent injury.

² The Board noted that there were no such inconsistencies in the evidence as to cast serious doubt upon the validity of appellant's claim.

³ Appellant also resubmitted copies of x-ray testing reports from March 2004.

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

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. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a 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.⁷

ANALYSIS

Appellant claimed that he sustained an injury on March 10, 2004 when he lifted a tray of mail weighing 25 to 30 pounds to head height and twisted and turned his upper body to the left. By decision dated April 25, 2006, the Office denied appellant's claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained an injury in the performance of duty on March 10, 2004.⁸

The Board finds that appellant did not submit sufficient medical evidence to establish that he sustained an injury in the performance of duty on March 10, 2004.

Appellant submitted a February 11, 2006 report in which Dr. Yathiraj, an attending Board-certified neurologist, stated that a letter was being provided regarding the injuries he "sustained in March 2004." Dr. Yathiraj stated, "[Appellant's] job involved repetitive motions in regards to the injuries that he sustained in 2000. This was once again exacerbated by injuries that he sustained in March 2004 with repetitive motion on row [sic]. His lifting heavy trays of mail caused an aggravation of the initial injuries that occurred in June 2000."

This report, however, is of limited probative value on the relevant issue of the present case in that Dr. Yathiraj did not provide adequate medical rationale in support of his conclusion on

⁶ See *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁷ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁸ By decision dated November 28, 2005, the Board affirmed the Office's previous denial of appellant's claim.

causal relationship.⁹ He did not provide a specific diagnosis of any injury sustained by appellant or explain the medical process which he believed caused such an injury. Dr. Yathiraj's report is not based on a complete and accurate factual and medical history, particularly with regard to the employment factors appellant alleged caused his injury.¹⁰ He only generally indicated that in "March 2004" appellant was injured by "lifting heavy trays of mail." However, appellant specifically claimed that he was injured on March 10, 2004 when he lifted a tray of mail weighing 25 to 30 pounds to head height and twisted and turned his upper body to the left. Dr. Yathiraj's report was very brief and did not contain a description of appellant's medical history or findings on physical examination and diagnostic testing.¹¹ He also did not explain why appellant's current condition would not have been due to nonwork-related factors.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty on March 10, 2004.

⁹ See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that 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).

¹⁰ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history).

¹¹ It appears that appellant previously sustained injury at work in June 2000 when a palm tree hit his neck and back and caused him to fall forward, but the record contains only brief references to this apparent injury. Dr. Yathiraj made note of a June 2000 injury but did not clearly explain what role it might have played in appellant's current condition.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' April 25, 2006 decision is affirmed.

Issued: September 25, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board