

muscle pull in the middle of his upper back. Appellant stopped work on September 22, 2004 and returned approximately one month later.

On October 4, 2004 the Office requested additional information from appellant who submitted a September 27, 2004 report from Dr. Larry Grabhorn, a Board-certified aerospace medicine specialist with the employing establishment. Dr. Grabhorn stated that appellant was seen by Robin Ramos, R.N., on September 22, 2004 and that the physical examination yielded a diagnosis of thoracic strain. He opined: "In my opinion, the history as stated by the patient was consistent with the physical findings. However, the patient history and method of injury are incongruous." Appellant also submitted a September 26, 2004 report from Dr. Richard Carlson, an orthopedic surgeon, who stated that appellant felt a "sharp pain all over his back" while "working in an awkward position." Dr. Carlson diagnosed lumbosacral strain. Appellant also submitted a statement, answers to the Office's questions and treatment notes from his physical therapist. Medical reports dated July 11, 1989, September 26, 1991 and December 10, 1992 address a prior back surgery that appellant underwent after a nonwork-related motor vehicle accident.

By decision dated November 18, 2004, the Office denied appellant's claim finding that the evidence of record was insufficient to establish his claim.

On November 29, 2004 appellant requested an oral hearing. The hearing was held on November 16, 2005. At the hearing, appellant testified that he was never examined by Dr. Grabhorn, but by a nurse at the employing establishment. After his examination, appellant returned to work. As the day progressed, he testified that his injury did not resolve and, after lunch, he filed his claim and went to see Dr. Carlson.

Following the hearing, appellant submitted additional treatment notes and reports from Dr. Carlson. In a November 17, 2004 report, Dr. Jairo A. Puentes, a Board-certified physiatrist, noted results of electrodiagnostic testing. In a July 25, 2003 report, Dr. Frank Luckay, a Board-certified orthopedic surgeon, described a prior back injury appellant sustained while moving equipment at a concert.

In a December 14, 2005 report, Dr. Carlson stated that appellant sustained a work-related injury on September 22, 2004. He noted findings from diagnostic tests and diagnosed lumbosacral and thoracic strains, aggravation of lumbosacral degenerative disc disease, aggravation of thoracic spondylosis and thoracic radiculitis. Dr. Carlson stated that appellant reported being injured while working on a helicopter at the employing establishment when he was working in an awkward position, with his body twisted and felt a sharp pain in his back. He noted that appellant had a history of advanced thoracic spondylosis, degenerative disc disease and a past lumbar laminectomy. Based on the history of injury, a physical examination and diagnostic tests, Dr. Carlson concluded that appellant "suffered a work-related injury on September 22, 2004 that aggravated a preexisting condition, thoracic and lumbar spondylosis, as well as suffering a thoracic and lumbosacral strain." Appellant also submitted a December 13, 2005 report from Dr. Carlson that was similar to the physician's December 14, 2005 report and addressed his lumbosacral spine conditions. The report concluded that appellant sustained a work-related lumbosacral strain on September 22, 2004 and that the injury aggravated appellant's preexisting lumbosacral spondylosis.

By decision dated January 20, 2006, the hearing representative affirmed the November 18, 2004 decision, finding that appellant had not met his burden of proof in establishing a causal relationship between the September 22, 2004 employment incident and a medical condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 an injury was sustained in the performance of duty as alleged, and that any disability or specific conditions for which compensation is claimed is causally related to the employment injury.² An award of compensation may not be based on surmise, conjecture, speculation or upon a claimant's own belief that there is a causal relationship between his or her claimed injury and his or her employment.³ To establish a causal relationship, the employee must submit a physician's report, in which the physician reviews the employment factors identified as causing the condition and, taking these factors into consideration as well as findings upon examination of the employee and his medical history, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.⁴

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.⁵ 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.⁶

ANALYSIS

The Board finds that the record establishes that the claimed twisting incident occurred at work on September 22, 2004. However, the medical evidence does not establish that the twisting incident on September 22, 2004 caused or aggravated appellant's diagnosed back conditions.

The record contains several medical reports which address appellant's back condition and his work. None of the reports, however, render an opinion on causal relationship that is supported by a complete factual and medical history and supported by a detailed explanation of the causal relationship between the employment incident and appellant's diagnosed condition.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Donald W. Long*, 41 ECAB 142 (1989).

⁴ *Id.*

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.*

Dr. Carlson's initial September 26, 2004 report noted that appellant stated that he was injured while working in an awkward position. However, he did not offer a specific opinion on causal relationship. In December 13 and 14, 2005 reports, Dr. Carlson provided some support for causal relationship. However, these reports are insufficient to establish appellant's claim because the physician did not provide adequate medical reasoning to explain how any of the diagnosed conditions were caused or aggravated by the September 22, 2004 work incident. Dr. Carlson noted the September 22, 2004 incident and reported findings. He addressed causal relationship by stating that appellant experienced an employment incident that aggravated his prior back conditions and caused lumbosacral and thoracic strain. However, Dr. Carlson does not provide a full explanation for concluding that the work incident caused or aggravated the diagnosed conditions.⁷ For example, he did not explain the medical reasons by which twisting on September 22, 2004 would have caused a lumbosacral and thoracic back strain. While Dr. Carlson referenced appellant's history of preexisting back conditions and surgery, he did not adequately explain the medical reasons of how the September 22, 2004 employment incident would have contributed to the diagnosed conditions and why the diagnosed conditions would not instead have been the result of the natural progression of the preexisting conditions. His December 13, 2005 report is deficient as it addresses causal relationship with regard to appellant's lumbosacral spine conditions in a manner similar to that contained in the December 14, 2005 report. The Board finds that Dr. Carlson's reports are of limited probative value as they do not sufficiently explain the medical reasoning supporting his opinion on causal relationship.

Also of record is the report of Dr. Grabhorn, an employing establishment physician. He noted reviewing findings of a nurse who examined appellant on September 22, 2004. However, Dr. Grabhorn did not provide support for causal relationship and questioned whether an injury as described by appellant could have occurred as alleged. The other medical evidence of record either predates the claimed September 22, 2004 injury or does not specifically address causal relationship between any diagnosed condition and the September 22, 2004 incident.

Accordingly, appellant has not met his burden of proof in establishing a causal relationship between his diagnosed condition and the September 22, 2004 incident.

CONCLUSION

The Board finds that appellant did not meet his burden of proof in establishing that his back condition is causally related to the employment incident on September 22, 2004.

⁷ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 20, 2006 is affirmed.

Issued: February 13, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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