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

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| **A.M., Appellant** | ) | |
| **and** | ) | **Docket No. 07-2211** |
| | ) | **Issued: July 7, 2008** |
| **U.S. POSTAL SERVICE, FOOTHILLS STATION, Yuma, AZ, Employer** | ) | |

*Appearances:*
*Linda Temple*, for the appellant
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

## DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

### ***JURISDICTION***

On August 29, 2007 appellant filed an appeal from an October 16, 2006 merit decision of the Office of Workers' Compensation Programs. Pursuant to 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 sustained a recurrence of disability on August 20, 2004 causally related to his January 13, 1997 employment injury. On appeal appellant contends that when he stopped work, he was working beyond his medical restrictions and that his accepted back condition had worsened.

### ***FACTUAL HISTORY***

On January 13, 1997 appellant, then a 41-year-old letter carrier, sustained an employment-related lumbosacral strain. He returned to limited duty on January 5, 1997. On February 14, 1998 appellant accepted a modified position as a general postal clerk, and continued in that position until he stopped work on August 20, 2004. On November 3, 2004 he

filed a Form CA-2a, claim for recurrence of disability, stating that his recurrence began on August 20, 2004. Appellant alleged that his limited-duty job had changed since April 2004 and that his medical condition had worsened.[1]

In a duty status report dated July 21, 1998, Dr. Roberto Perez Garcia, Board-certified in family medicine, provided restrictions that appellant could sit eight hours a day, stand and walk two to four hours, perform simple grasping six to eight hours and fine manipulation one to three hours daily, drive two to three hours, reach above the shoulder one to two hours, pull and push for zero to one hour, bend, stoop and twist for one half-hour to one hour daily, not climb or kneel, and had a continuous lifting/carrying restriction of one to five pounds and an intermittent restriction of 6 to 10 pounds. By reports dated November 17, 2001, February 12 and September 30, 2002, February 3 and June 10, 2003, he provided the same restrictions. On August 16, 2004 Dr. Garcia noted that appellant had constant back pain, bilateral arm numbness, elevated glucose and chest pain and advised that he was not incapacitated and could work modified duty. In a September 1, 2004 attending physician's report, he advised that appellant could not work due to severe back pain. On a September 7, 2004 attending physician's report, Dr. Garcia diagnosed chronic back pain, checked a "yes" box, indicating the condition was employment related and advised that appellant could not work. He continued to submit reports advising that appellant was totally disabled and referred appellant to Dr. Christopher A. Yeung, a Board-certified orthopedic surgeon.

In a report dated September 13, 2004, Dr. Yeung noted appellant's complaint of 90 percent back pain and 10 percent right lower extremity pain and that he was not working. Physical examination demonstrated mild paraspinal tenderness with 5/5 strength in both lower extremities with sensation grossly intact except for some numbness in the right anterior thigh and patchy numbness in the right lower extremity. Straight leg raising was negative. Dr. Yeung reported that x-rays showed disc space narrowing at L5-S1 and slight levoscoliosis of the lumbar spine. He reviewed a January 29, 1997 computerized tomography scan of the lumbar spine that showed only minor annular disc bulges at L4-5 and L5-S1, and noted that February 14 1997 myelography and February 17, 1997 electromyography and nerve conduction studies were reported as normal. Dr. Yeung diagnosed degenerative disc disease at L5-S1 and lumbar sprain/strain. He opined that appellant could have exacerbated his degenerative disc disease, was temporarily totally disabled and recommended physical therapy. In a November 1, 2004 report, Dr. Yeung noted that an October 14, 2004 magnetic resonance imaging (MRI) scan demonstrated degenerative disc disease at L4-5 and L5-S1, a mild concentric disc bulge at L4-5, and mild bilateral neural foraminal and lateral stenosis with no large nerve root compression. He diagnosed lumbar sprain/strain, aggravation of degenerative disc disease at L5-S1 and L4-5, and right lower extremity radiculitis and recommended facet joint injections. On January 20, 2005 Dr. Garcia advised that appellant could not work due to back pain.

In statements dated October 4 and December 13, 2004, appellant alleged that he was ordered by Linda Frank-Funk, manager of customer service, to work outside his restrictions by having to go to the bank for change, carrying coin pouches weighing 10 to 15 pounds or more, that he boxed and sorted mail for one to two hours daily where he was required to reach above

[1] Appellant also has claims accepted for bilateral carpal tunnel syndrome and left median nerve lesion.

his shoulders, stoop, bend, twist and lift mail weighing in excess of 20 pounds, that he retrieved outgoing mail by pushing a cart weighing 50 to 75 pounds and had to stoop, bend, twist and lift a bucket weighing 20 pounds or more, replaced carts holding priority mail parcels weighing up to 20 pounds in large gurneys, that he assisted distribution clerks in rolling down heavy steel cages weighing 200 pounds or more, and retrieved parcels weighing 12 to 15 pounds from MD Cigars using a long life vehicle (LLV) with a damaged tail gate which was hard to open and close. Upon return to the employing establishment, he stated that he placed the parcels inside a crate and rolled it up a ramp.

Appellant also submitted a September 16, 2004 statement in which Maria I. Pacheco, a coworker, advised that appellant's duties entailed boxing letters and flats into postal numbered slots, sorting small and large parcels, helping at the front window by removing carts of parcels and other large items, and that on occasion he would remove mail from the outside lock box and empty full carts of mail, help roll out mail and parcel cages, and drive an LLV to MD Cigars to pick up parcels and upon his return would roll a crate filled with the parcels into the employing establishment. In letters of support dated December 8 and 10, 2004 respectively, Craig Clayborne, local president of the American Postal Workers Union, and Martha Ortiz, local president of the National Association of Letter Carriers, opined that appellant was persecuted by Ms. Frank-Funk.

The employing establishment controverted the claim, alleging that appellant did not work outside his physical restrictions and submitted an August 21, 2004 letter in which appellant resigned from the employing establishment, and an August 27, 2004 letter in which he rescinded his resignation. In several statements, Ms. Frank-Funk advised that she complied with the exact work restrictions provided by Dr. Garcia, and never asked appellant to work outside his restrictions. She described appellant's job duties which included boxing mail for two hours daily, answering the telephone, and advised that he was able to sit, walk or stand as needed. Ms. Frank-Funk stated that she reviewed the restrictions with appellant, and that, when he went to the bank, he got 10 rolls of quarters that weighed exactly 5 pounds 7 ounces, 100 one dollar bills and 20 five dollar bills, which was under his 6- to 10-pound weight restriction. She stated that when he worked in the box section he was to use a cart with letters only, was to sort from the waist to shoulders, and was to hold only a small handful at a time. Ms. Frank-Funk stated that he was never told to retrieve mail from the collection box, was never requested to replace carts holding priority mail parcels, and was not requested to stack mail on shelves. She reported that two preliminary allegations of sexual harassment were filed against appellant, and while being investigated, he was told on August 23, 2004 to report to the main post office. Appellant then requested leave-without-pay because he did not want to work at the main post office. This was denied and he filed a grievance.

Coworkers Della Clevenger, Steve Vasquez, Jacolyn L. Jenkins and Erni McCowan submitted statements in which they attested that Ms. Frank-Funk had not influenced their opinions. They stated that appellant spent most of the workday answering the telephone and helping customers in the lobby, and helped box mail on some days but avoided parcels and would only pick up a half dozen flats or a handful of letters and was careful to stay within his restrictions. They reported that appellant also worked on nixie mail but another clerk would place one tub of letters and flats on appellant's desk. Appellant would occasionally push u-carts full of mail but would leave them for the clerks to empty. No one saw him lift parcels or empty

the outside collection box, but that, if he did other duties, he did them on his own and not at the request of Ms. Frank-Funk. In a statement received November 8, 2004, Jeanne Stringham of MD Cigars, advised that appellant only picked up packages on a few occasions and that the packages weighed two to four pounds on average.

The Office referred appellant to Dr. Charles T. Gauntt, Board-certified in orthopedic surgery, for a second opinion evaluation. In a report dated October 8, 2004, Dr. Gauntt noted the history of injury and his review of the medical record. Physical examination demonstrated tenderness at the right lumbosacral junction and sciatic notch with pain down the right lower extremity. Back motion was extremely limited, and supine straight leg raising was positive bilaterally with sitting positive on the right. Neurologic examination demonstrated hypesthesia at the lateral border of the right foot and posterior calf. Motor function was intact. Dr. Gauntt diagnosed probable herniated disc at L5-S1 and recommended an MRI scan study. He advised that recommendations for treatment would have to await MRI scan findings. Dr. Gauntt concluded that appellant had been totally disabled since August 20, 2004 because he could not sit, stand or walk "for any practically useful periods of time" and was unable to stand upright, and that his current disability "appears to be based completely on his industrial injury." He concluded that a determination of when the disability would cease also was dependent on the MRI scan findings. In an October 13, 2004 work capacity evaluation, Dr. Gauntt advised that appellant could not work.

An October 14, 2004 MRI scan of the lumbar spine demonstrated a concentric disc bulge with annular tear and endplate spurring at the L4-5 level, combined with congenitally short pedicles and hypertrophic facet arthropathy, resulting in mild to moderate canal narrowing. A chronic shallow disc bulge was present at the L5-S1 level which, in combination with mild hypertrophic arthropathy, resulted in minimal bilateral inferior narrowing. At T2-L1, a shallow noncompressive disc displacement was present, and mild to moderate hypertrophic facet arthropathy was seen throughout the lumbar spine.

The Office determined that a supplemental report was needed and prepared a set of questions asking for Dr. Gauntt's opinion following review of the MRI scan. Dr. Gauntt died before a report could be obtained, and the Office referred appellant to Dr. Kenneth H. Stover, an osteopath, who practices neurology and neurosurgery. The statement of accepted facts provided to Dr. Stover included the physical requirements of appellant's modified position and a description of his accepted conditions. In a February 4, 2005 report, Dr. Stover noted his review of the history of injury and medical record. Regarding physical findings, he stated that appellant had signs and symptoms consistent with lumbar strain and lumbar spondylosis and could have mild spinal stenosis at L4-5 but had no involvement with cauda equina or objective evidence from radiologic studies of radiculopathy as a result of foraminal compression. Dr. Stover further stated that appellant had "extreme" inconsistent findings of both motor and sensory examinations with nonneurological and nonconfirming findings, noting that all the observed changes were inconsistent and were purely subjective and did not conform with any specific neurologic diagnosis or compression neuropathy syndrome in the lumbar area and that the inconsistencies extended into his examination of the upper extremities. He concluded that he found no evidence of true radiculopathy by history, on physical examination or on reviewing the MRI scan report. Dr. Stover diagnosed lumbar strain by history, left ulnar neuropathy by history, bilateral carpal tunnel syndrome by history, myocardial infarction with coronary artery stent by history, gastric

bypass surgery by history, diabetes by history, hypertension by history and obesity. He stated that appellant's back problems began with his January 1997 employment injury but that he had preexisting weight-bearing obesity and associated spondylosis with minimal spinal canal stenosis. Dr. Stover opined that appellant's prognosis was poor, noting that his symptoms far outstretched objective findings from both a neuroradiologic standpoint and neurologic examination standpoint but that he could perform modified work duties based on his physical examination. In an attached work capacity evaluation, he stated that appellant could work 8 hours a day with no restriction on sitting, could walk, stand, and lift 2 hours a day, could repetitively move for 6 hours daily, and could not twist, operate a motor vehicle, squat, kneel or climb and should have 15-minute breaks 4 times a day.

By decision dated March 8, 2005, the Office denied the claim. It noted that appellant had not established that he was working outside his restrictions or that the accepted medical condition had worsened. On March 28, 2005 appellant requested a hearing, and submitted an April 26, 2005 report in which Dr. Garcia continued to advise that appellant could not work. In a July 6, 2005 report, Dr. Yeung noted appellant's report of continued back and right lower extremity pain, that he needed a cane, and that "all aspects of his job were unbearable and he was unable to do them." He stated that appellant reported he was unable to stand for any significant period of time, that simple sitting caused back and right lower extremity pain, and that bending, lifting, twisting and overhead reaching exacerbated his symptoms, and noted that epidural injections had been performed with minimal relief. Dr. Yeung reported that appellant provided a summary of his job duties and the symptoms these duties produced and that he did not feel he could return to work. He stated that physical examination on April 1, 2005 showed that appellant required a cane to ambulate and that he had marked reduction in lumbar range of motion with mild paraspinal tenderness and negative straight leg raising. Dr. Yeung diagnosed aggravation of degenerative disc disease at L5-S1 greater than L4-5, chronic lumbar sprain/strain, and right lower extremity radiculitis. He opined that since the 1997 employment injury appellant had a gradual worsening of symptoms "as one would expect with degeneration in the lumbar spine," advising that he was permanently disabled which could be "attributable to his industrial injuries." Dr. Yeung performed an additional facet injection on April 24, 2006.

At the hearing, held on July 26, 2006, appellant testified that he was ordered to exceed his physical restrictions at the employing establishment and that his medical condition has worsened since being transferred there and that he was retired. By letter dated August 24, 2006, the employing establishment disagreed with appellant's description of his work duties prior to the date he stopped work on August 24, 2004, as supported by the statements of Ms. Frank-Funk and his coworkers. The employing establishment stated that he stopped work only after he was advised that he was to be transferred because of an ongoing investigation and reiterated that appellant was working within the restrictions provided by Dr. Garcia.

In an August 31, 2006 statement, appellant attested that he mainly retrieved coins from the bank and had to carry two bags of coins which he estimated weighed 10 pounds or more each, and that Ms. Frank-Funk ordered him to work outside his restrictions which included assisting the front clerks at whatever they required, including retrieving mail from the collection box. He acknowledged that his primary job was on the telephone and at the customer door where people lined up for him to retrieve their held mail. Appellant stated that this required him to go back and forth looking for the mail. Regarding Ms. Pacheco, he stated that she had been a

family friend since 1994 and that he had done extensive computer work for her and her husband and helped them both on and off the clock with personnel issues and matters dealing with their trucking business including making bank deposits during his lunch hour and after work and would also pick up their daughter at school. Appellant stated that Ms. Frank-Funk harassed him because she was jealous of his relationship with Ms. Pacheco. He stated that he did not want to be transferred to the main post office because he feared he would have another heart attack as he had in 2003 and that the charges brought against him were a smoke-screen to draw attention away from Ms. Frank-Funk's improprieties, implying that she was promoted because of her actions against his claim. By decision dated October 16, 2006, an Office hearing representative affirmed the March 8, 2005 decision.

## ***LEGAL PRECEDENT***

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.[2] This term also means an inability to work when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force), or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.[3]

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, the employee must show either a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the light-duty requirements.[4]

## ***ANALYSIS***

In this case, appellant is claiming both that his condition worsened so that he could no longer work and that he was forced to work outside his medical restrictions. While changes in the nature and extent of an employee's light-duty requirements can result in a compensable recurrence of disability, not all such changes have this effect. Only changes that cause the light-duty assignment to exceed the employee's work tolerance limitations result in a compensable recurrence of disability. An employee is not obligated to perform work that does not comply with the physical restrictions established by the medical evidence.[5] The evidence in this case,

[2] 20 C.F.R. § 10.5(x); *see Theresa L. Andrews*, 55 ECAB 719 (2004).

[3] *Id.*

[4] *Shelly A. Paolinetti*, 52 ECAB 391 (2001); *Robert Kirby*, 51 ECAB 474 (2000); *Terry R. Hedman*, 38 ECAB 222 (1986).

[5] *Kim Kiltz*, 51 ECAB 349 (2000).

however, does not support appellant's claim that he was forced to work outside his medical restrictions.

Appellant stopped work on August 20, 2004. At that time his medical restrictions, as furnished by his attending family practitioner, Dr. Garcia, provided that he could sit eight hours a day, stand and walk two to four hours, perform simple grasping six to eight hours and fine manipulation one to three hours daily, drive two to three hours, reach above the shoulder one to two hours, pull and push for zero to one hour, bend, stoop and twist for one half-hour to one hour daily, not climb or kneel, with a continuous lifting/carrying restriction of 1 to 5 pounds and an intermittent restriction of 6 to 10 pounds. On August 16, 2004 four days before appellant stopped work, Dr. Garcia advised that appellant could continue to work modified duty. Appellant contended that he was ordered by his supervisor, Ms. Frank-Funk, to work outside his physical restrictions by having to carry coin pouches weighing 10 to 15 pounds or more, to reach above his shoulders, stoop, bend, twist and lift mail weighing in excess of 20 pounds for one to two hours daily, to push a cart weighing 50 to 75 pounds, lift a bucket weighing 20 pounds or more, replace carts weighing up to 20 pounds, roll down steel cages weighing 200 pounds or more, retrieve parcels weighing 12 to 15 pounds and open and close a damaged LLV tail gate. He also submitted letters from union presidents who advised that he was persecuted by Ms. Frank-Funk, and a statement in which Ms. Pacheco, a coworker and personal friend, who advised that appellant's duties entailed boxing letters and flats into postal numbered slots, sorting small and large parcels, helping at the front window by removing carts of parcels and other large items, occasionally removing mail from the outside lock box and emptying full carts of mail, helping roll out mail and parcel cages, and driving an LLV to MD Cigars to pick up parcels.

The employing establishment, however, advised that appellant stopped work because he was being transferred due to an ongoing investigation for sexual harassment and furnished letters in which he resigned and then rescinded his resignation. Ms. Frank-Funk advised that she complied with the exact work restrictions provided by Dr. Garcia and described appellant's job duties which were within these restrictions. She disagreed with his description of his modified job duties and advised that he was able to sit, walk or stand as needed, that she reviewed the restrictions with appellant, and that he was never told to retrieve mail from the collection box, was never requested to replace carts holding priority mail parcels, and was not requested to stack mail on shelves. Ms. Frank-Funk also noted that appellant had requested leave without pay but was denied.

A number of coworkers provided statements. Their description of appellant's job duties indicated that the duties conformed with his physical restrictions. Ms. Stringham of MD Cigars reported that appellant only picked up packages on a few occasions and that the packages weighed two to four pounds on average.

The Board finds that the description of appellant's job duties provided by the employing establishment comports with the physical restrictions provided by Dr. Garcia at the time appellant stopped work on August 20, 2004. While appellant submitted statements from union presidents, they merely opined that he was harassed by Ms. Frank-Funk, and while in a September 16, 2004 statement, Ms. Pacheco described job duties apparently outside appellant's restrictions, Ms. Frank-Funk advised that she carefully complied with Dr. Garcia's restrictions and provided a number of statements from coworkers describing appellant's job duties as within

the restrictions provided, as well as a statement from Ms. Stringham of MD Cigars. The Board finds this evidence more credible and concludes that the evidence does not support appellant's contention that Ms. Frank-Funk ordered him to work outside his medical restrictions.[6]

The Board also finds that appellant has not established that the nature and extent of his injury-related condition changed on August 20, 2004 so as to prevent him from continuing to perform his limited-duty assignment. The Board has held that a partially disabled claimant who returns to a light-duty job has the burden of proving that he or she cannot perform the light duty, if a recurrence of total disability is claimed.[7] The issue of whether an employee has disability from performing a modified position is primarily a medical question and must be resolved by probative medical evidence.[8] A claimant's burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical rationale. Where no such rationale is present, the medical evidence is of diminished probative value.[9]

The accepted condition in this case is lumbosacral strain with additional accepted conditions of bilateral carpal tunnel syndrome and left median nerve lesion. Appellant's attending family practitioner, Dr. Garcia, advised on August 16, 2004 that appellant could continue to work modified duty with the same restrictions provided initially in 1998. While he stated beginning on September 1, 2004 that appellant could not work due to severe back pain, he did not demonstrate any knowledge of the job requirements of appellant's limited-duty position or provide a rationalized explanation as to why appellant could not perform the light-duty work. The Board has long held that medical conclusions unsupported by rationale are of diminished probative value and insufficient to establish causal relationship.[10] Furthermore, a pain disorder has not been accepted as employment related. In September through November 2004 reports, Dr. Yeung, an attending orthopedist, opined that appellant could have exacerbated his degenerative disc disease and was temporarily totally disabled. He noted MRI scan findings and diagnosed lumbar sprain/strain, aggravation of degenerative disc disease at L5-S1 and L4-5, and right lower extremity radiculitis and on July 6, 2005 noted appellant's report that all aspects of his job were unbearable and he could no longer perform them. Dr. Yeung opined that appellant had a gradual worsening of symptoms since 1997 and was totally disabled, and stated that this was "as one would expect with degeneration in the lumbar spine" which could be "attributable to his industrial injuries."

While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship

[6] *See John I. Echols*, 53 ECAB 481 (2002).

[7] *See William M. Bailey*, 51 ECAB 197 (1999).

[8] *Cecelia M. Corley*, 56 ECAB 662 (2005).

[9] *Mary A. Ceglia*, 55 ECAB 626 (2004).

[10] *See Albert C. Brown*, 52 ECAB 152 (2000).

must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.[11] Dr. Yeung couched his opinion in imprecise terms, and he too demonstrated no knowledge of appellant's modified duties.[12] Furthermore, degenerative disc disease has not been accepted as employment related. Dr. Yeung's opinion is therefore insufficient to establish that appellant's work stoppage on August 20, 2004 was employment related.

The Office initially referred appellant to Dr. Gauntt for a second opinion evaluation, and in an October 8, 2004 report he concluded that appellant had been totally disabled since August 20, 2004 because he could not sit, stand or walk "for any practically useful periods of time" and was unable to stand upright, opining that appellant's current disability "appears to be based completely on his industrial injury." Dr. Gauntt concluded that a determination of when the disability would cease was dependent on MRI scan findings. Unfortunately, he died before he could review the October 14, 2004 MRI scan described above, and the Office then referred appellant to Dr. Stover for a second opinion evaluation.

The Office has the discretion to have a claimant submit to an examination by a physician designated or approved by the Office after the injury and as frequently and at the times and places as may be reasonably required.[13] The determination of the need for an examination, the type of examination, the choice of locale and the choice of medical examiners are matters within the province and discretion of the Office.[14] It was therefore permissible for the Office to refer appellant to Dr. Stover, especially since Dr. Gauntt did not have the opportunity to review the MRI scan findings. In a February 4, 2005 report, Dr. Stover stated that appellant had signs and symptoms consistent with lumbar strain and lumbar spondylosis and could have mild spinal stenosis at L4-5 but had no evidence of true radiculopathy by history, on physical examination or upon review of the MRI scan study. He stated that appellant's back problems began with his January 1997 employment injury but that he had had preexisting weight-bearing obesity and associated spondylosis with minimal spinal canal stenosis and opined that appellant could perform modified work duties based on his physical examination. Dr. Stover also noted that appellant had inconsistent findings of both motor and sensory examinations with nonneurological and nonconfirming findings, noting that all the observed changes were inconsistent and were purely subjective and did not conform with any specific neurologic diagnosis or compression neuropathy syndrome in the lumbar area and that the inconsistencies extended into his examination of the upper extremities. In an attached work capacity evaluation, the physician advised that appellant could work 8 hours a day with no restriction on sitting, could walk, stand, and lift 2 hours a day, could repetitively move for 6 hours daily, and could not twist, operate a motor vehicle, squat, kneel or climb with 15-minute breaks 4 times a day.

[11] *Patricia J. Glenn*, 53 ECAB 159 (2001).

[12] *Albert C. Brown, supra* note 10.

[13] *William B. Webb*, 56 ECAB 156 (2004).

[14] *Scott R. Walsh*, 56 ECAB 353 (2005).

It is appellant's burden of proof to submit the necessary medical evidence to establish a claim for a recurrence. A mere conclusion without the necessary medical rational explaining how and why the physician believes that a claimant's accepted exposure would result in a diagnosed condition is not sufficient to meet the claimant's burden of proof. The medical evidence must also include rationale explaining how the physician reached the conclusion he or she is supporting.[15] The record in this case does not contain a medical report providing a reasoned medical opinion that appellant's claimed recurrence of disability was caused by the accepted lumbosacral strain.[16]

## ***CONCLUSION***

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a recurrence of disability on August 20, 2004 causally related to his January 13, 1997 employment injury.

## ***ORDER***

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 16, 2006 be affirmed.

Issued: July 7, 2008
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

[15] *Beverly A. Spencer*, 55 ECAB 501 (2004).

[16] *Cecelia M. Corley*, *supra* note 8.