United States Department of Labor
Employees' Compensation Appeals Board

W.K., Appellant	)	
and	)	**Docket No. 08-754**
	)	**Issued: July 17, 2008**
DEPARTMENT OF THE AIR FORCE, LANGLEY AIR FORCE BASE, VA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On January 16, 2008 appellant filed a timely appeal of a December 6, 2007 decision of the Office of Workers' Compensation Programs which found that he did not sustain an injury in the performance of duty. 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 in establishing that he sustained an injury on April 17, 2007.

FACTUAL HISTORY

On April 25, 2007 appellant, then a 59-year-old program analyst, filed a traumatic injury claim alleging that on April 17, 2007 he was injured while moving boxes in preparation for an office move. He alleged that, later that night, he began to feel a slight pain, which was diagnosed as a herniated disc. Appellant stopped work on April 24, 2007.

Appellant submitted a May 7, 2007 report from his treating physician, Dr. Jeffrey Carlson, a Board-certified orthopedic surgeon, who noted that appellant was seen for right hip pain and related that appellant "began having pain, and then he walked a couple of miles next morning April 17, 2007." Dr. Carlson advised that appellant related that his pain began worsening down into his right knee, thigh and hip and that his back pain was not as severe. He noted that appellant had some numbness in the right knee. Dr. Carlson determined that appellant had lower back pain and multilevel degenerative disc disease. He submitted a May 23, 2007 work capacity evaluation and advised that appellant could return to work. In a June 4, 2007 report, Dr. Carlson advised that appellant was seen for right hip and L4-5 degenerative disc disease. He noted that appellant "did some sprints today, however, and aggravated his back." Dr. Carlson noted that appellant had been doing some light jogging and this had not been bothersome. He opined that appellant seemed to be improving and he could be as active as he felt comfortable. Appellant also submitted several physical therapy reports dating from April 17 to August 24, 2007.

By letter dated October 23, 2007, the Office advised appellant that additional factual and medical evidence was needed. The Office allotted him 30 days to submit the requested information.

On November 5, 2007 the Office received an undated letter from appellant. Appellant stated that, during the week of April 17 to 20, 2007, the employing establishment relocated due to organizational restructuring. He alleged that "Sometime on the 17th of April I lifted a box of files and twisted to reposition it out of the way." Appellant did not notice anything at the time but, by Friday, the pain was becoming intolerable. He was sent home on Friday because of the pain and sought medical attention because it was not decreasing. Appellant denied having sustained any other injury. He stated that he had sent his forms to his attending physician to complete.

The Office received a patient information form and reply from Dr. Carlson on November 21, 2007. He related that appellant was packing boxes on April 17, 2007.

By decision dated December 6, 2007, the Office denied appellant's claim on the grounds that he did not establish fact of injury. It found that the evidence was sufficient to show that claimed event, packing boxes at work on April 17, 2007 occurred as alleged. However, the Office found that there was insufficient medical evidence supporting that the accepted employment incident caused a diagnosed condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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[2] and that an injury was

[1] 5 U.S.C. §§ 8101-8193.

[2] *Joe D. Cameron*, 41 ECAB 153 (1989).

sustained in the performance of duty.[3] These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

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 employment incident caused a personal injury and generally this can be established only by medical evidence.[5]

The employee must also submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[6] The medical evidence required to establish causal relationship is usually rationalized medical 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 alleged that he was moving boxes at work on April 17, 2007. The Office accepted that he moved boxes while in the performance of duty at work. The Board finds that the first component of fact of injury, the claimed incident -- that appellant was moving boxes on April 17, 2007, occurred as alleged.

However, the medical evidence is insufficient to establish that the employment incident caused an injury. The medical reports of record do not establish that moving boxes at work on April 17, 2007 caused a personal injury. The medical evidence contains no reasoned explanation of how the incident of April 17, 2007 caused or aggravated an injury.[8]

[3] *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[4] *Delores C. Ellyett*, 41 ECAB 992 (1990).

[5] *See John J. Carlone*, 41 ECAB 354, 357 (1989).

[6] *Id*. For a definition of the term "traumatic injury," see 20 C.F.R. § 10.5(ee).

[7] *Id.*

[8] *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).

Appellant submitted reports dated May 7 and June 4, 2007 from Dr. Carlson, who noted that appellant was seen for pain in the right hip, knee, thigh and back and multilevel degenerative disc disease. However, other than a diagnosis of pain, Dr. Carlson did not diagnose a specific condition or address causal relationship by stating how appellant's lifting at work on April 17, 2007 caused or aggravated any diagnosed condition.[9]

The Office received a patient information form from Dr. Carlson on November 21, 2007. Dr. Carlson related that appellant was packing boxes on April 17, 2007. However, he did not offer any further opinion on causal relationship, other than to say appellant was packing boxes at work. Medical reports not containing rationale on causal relation are of diminished probative value and are insufficient to meet an employee's burden of proof.[10]

Appellant also provided several physical therapy reports. However, health care providers such as physical therapists are not physicians under the Act. Their opinions on causal relationship do not constitute rationalized medical opinions and have no weight or probative value.[11] Appellant did not submit any other medical evidence that specifically addressed how the April 17, 2007 lifting incident caused or aggravated any diagnosed medical condition. Consequently, he has submitted insufficient medical evidence to establish that the April 17, 2007 incident caused an injury.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

[9] *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

[10] *Lois E. Culver (Clair L. Culver)*, 53 ECAB 412 (2002).

[11] *See Jane A. White*, 34 ECAB 515, 518 (1983).

ORDER

IT IS HEREBY ORDERED THAT the December 6, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 17, 2008
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