

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

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**R.F., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Kansas City, MO, Employer**

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**Docket No. 13-168  
Issued: April 8, 2013**

*Appearances:*

*Alan J. Shapiro, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

PATRICIA HOWARD FITZGERALD, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On October 31, 2012 appellant filed a timely appeal of the September 25, 2012 decision of the Office of Workers' Compensation Programs (OWCP) which denied his claim for a traumatic injury. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether appellant has met his burden of proof to establish that he sustained a traumatic injury in the performance of duty.

**FACTUAL HISTORY**

On March 24, 2010 appellant, then a 49-year-old tractor trailer operator, filed a traumatic injury claim alleging that, on February 13, 2010, he strained his right abdomen when he pulled down a trailer door. He did not stop work.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

Appellant was treated by Dr. Jon S. Gengler, a Board-certified general surgeon, from February 15, 2010 to March 15, 2011, for right groin pain. He reported opening a door on a truck at work and feeling “something” in his right groin which he thought was a hernia. Appellant reported no previous problems. Dr. Gengler diagnosed right inguinal hernia. On April 16, 2010 he noted appellant’s complaints of pain, aching and a burning sensation of the right groin. Upon physical examination, Dr. Gengler noted a reducible small-to-moderate right inguinal hernia. He diagnosed right inguinal hernia and recommended a surgical repair with mesh. Appellant subsequently reported that the hernia became worse and examination revealed a reducible moderate-size right inguinal hernia. On March 21, 2011 Dr. Gengler requested authorization for surgery.

By letter dated March 28, 2011, OWCP advised appellant that his claim was originally received as a simple, uncontroverted case which resulted in minimal or no time loss from work. It was administratively handled to allow medical payments up to \$1,500.00; however, the merits of the claim had not been formally adjudicated. As he requested surgery authorization, appellant’s claim would be formally adjudicated. It requested that he submit a comprehensive medical report from his treating physician which included a reasoned explanation as to how the specific work factors or incidents identified by appellant had contributed to his claimed right inguinal hernia. OWCP noted that appellant’s physician treated him on April 16, 2010 and March 15, 2011 and appellant reported that his hernia worsened during this time. It requested that appellant address whether he sustained any other injury during this period. In a March 30, 2011 note, he responded that he did not sustain another injury from April 16, 2010 to March 15, 2011.

In a decision dated May 2, 2011, OWCP denied appellant’s claim. It found that the medical evidence submitted was insufficient to establish causal relation.

On May 13, 2011 appellant requested a telephonic oral hearing which was held on August 2, 2011. He submitted an accident reenactment report. On February 13, 2010 while rolling up a trailer door, appellant felt a pull in his stomach region. Management noted that all trailer doors would be checked when being serviced to prevent this type of accident in the future. Appellant also submitted a February 15, 2010 report previously of record.

In a decision dated September 7, 2011, an OWCP hearing representative affirmed the May 2, 2011 decision, finding that the record lacked rationalized medical evidence addressing causal relationship.

On July 24, 2012 appellant requested reconsideration. He submitted an August 22, 2011 report from Dr. Robert N. Drogan, an osteopath, who noted treating appellant originally on February 15, 2010 after he lifted a door on a truck and felt pain in the right lower abdomen followed by a bulge the next day. Dr. Drogan listed physical findings and diagnosed right inguinal hernia. He stated that appellant was totally disabled from May 2 to June 13, 2011. Dr. Drogan opined that lifting the truck door resulted in the right inguinal hernia. He noted that appellant did not have a preexisting condition which may have contributed to this diagnoses or disability.

On September 25, 2012 OWCP denied modification of the September 7, 2011 decision.

## LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA, that the claim was filed within the applicable time limitation of FECA, 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>2</sup>

To determine whether an employee actually sustained an injury in the performance of duty, OWCP 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.<sup>3</sup> The second component of fact of injury is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>4</sup>

Rationalized medical opinion is 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.<sup>5</sup> The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>6</sup>

## ANALYSIS

OWCP accepted that appellant worked as a tractor trailer operator and, on February 13, 2010, pulled down a trailer door. It is also not disputed that he was diagnosed with right inguinal hernia. The Board finds that appellant has not submitted sufficient medical evidence to establish that his right inguinal hernia is causally related to the February 13, 2010 work incident.

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<sup>2</sup> *Gary J. Watling*, 52 ECAB 357 (2001).

<sup>3</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>4</sup> *Id.*

<sup>5</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>6</sup> *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

Appellant did not submit a sufficient medical report from a physician explaining how the February 13, 2010 incident caused or aggravated the hernia condition.

Appellant was treated by Dr. Gengler on February 15, 2010 for pain in the right groin. He obtained a history of opening a door on a truck and appellant feeling “something” in his right groin which he thought was a hernia. Dr. Gengler diagnosed right inguinal hernia. On April 16, 2010 he noted findings, restated his diagnosis and recommended surgery. In a March 15, 2011 report, Dr. Gengler diagnosed a right inguinal hernia from April 2010 with ongoing pain and again recommended surgery. He did not address treatment from April 16, 2010 to March 15, 2011. Other than his diagnosis, Dr. Gengler did not adequately address how appellant’s condition was work related.<sup>7</sup> He failed to provide a rationalized opinion regarding the causal relationship between appellant’s right inguinal hernia and opening the door to a truck on February 13, 2010.<sup>8</sup> Therefore, the reports are insufficient to meet appellant’s burden of proof.

Appellant submitted an August 22, 2011 report from Dr. Drogan, who advised that he treated appellant on February 15, 2010 after he lifted a trailer door on a truck and felt pain in the right lower abdomen. Dr. Drogan opined generally that lifting the truck door resulted in the right inguinal hernia. He noted that appellant did not have a preexisting condition which may have contributed to this diagnoses or disability. Although Dr. Drogan generally supported causal relationship, he did not provide adequate explanation for his opinion regarding the causal relationship between appellant’s right inguinal hernia and the factors of employment.<sup>9</sup> Neither physician addressed the nature or weight of the door or how the motion of such work would cause or contribute to the diagnosed condition. Therefore, the medical evidence is insufficient to meet appellant’s burden of proof.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant’s condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship. Causal relationships must be established by rationalized medical opinion evidence.<sup>10</sup> Appellant failed to submit such evidence, and OWCP therefore properly denied his claim for compensation.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

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<sup>7</sup> See *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

<sup>8</sup> *Supra* note 6.

<sup>9</sup> See *T.M.*, Docket No. 08-975 (issued February 6, 2009) (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).

<sup>10</sup> See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

**CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish that his claimed conditions were causally related to his employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 25, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 8, 2013  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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