

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

S.D., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Pittsburgh, PA, Employer**

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**Docket No. 16-1043
Issued: February 8, 2017**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 20, 2016 appellant filed a timely appeal from a November 19, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 met her burden of proof to establish a lower back injury causally related to the August 10, 2015 employment incident.

FACTUAL HISTORY

On August 11, 2015 appellant, a 60-year-old mail clerk, filed a traumatic injury claim (Form CA-1), alleging that she injured her lower back on August 10, 2015 while lifting mail trays.

¹ 5 U.S.C. § 8101 *et seq.*

In a work release note dated August 27, 2015, Dr. Anita Conway, Board-certified in emergency medicine, advised that appellant was treated in a hospital emergency room on August 27, 2015. Appellant was placed off work from August 27 to 31, 2015 due to an injury and released to return to work without restrictions on September 1, 2015. Dr. Conway recommended that appellant be referred for further evaluation if her symptoms continued and she was unable to perform the full duties of her job as of September 1, 2015.

A Form CA-17 dated September 16, 2015, indicated that appellant was experiencing lower back pain. On this form the physician checked a box marked "yes" which indicated that appellant's account of the August 10, 2015 work incident was consistent with how the injury occurred. The report contained a physician's signature which was illegible.

By letter dated October 6, 2015, OWCP advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. It asked her to submit a comprehensive medical report from her treating physician describing her symptoms and the medical basis for her condition, and an opinion as to whether her claimed condition was causally related to her federal employment. OWCP afforded appellant 30 days to submit the additional evidence.

Appellant submitted an August 27, 2015 report containing results of a computerized axial tomography (CAT) scan of the lumbar spine. The test noted that paraspinal soft tissues were unremarkable, with no high-grade osseous encroachment on the central canal, mild multilevel foraminal narrowing from L2-3 to L5-S1, and no acute fracture or traumatic malalignment of the lumbar spine.

In an August 27, 2015 report, Dr. Conway advised that she examined appellant at the emergency department and noted that appellant had been experiencing back pain since August 10, 2015 when she lifted a tray at work. She reported that appellant was still having pain which was worsened by movement. Appellant related that the pain did not radiate down her legs and advised that she was not experiencing numbness. Dr. Conway noted that the lumbar CAT scan showed multilevel degenerative joint disease of the lumbar spine and advised that she was giving appellant the next five days off to allow her to rest, as her work included bending and lifting.

A handwritten treatment note dated August 31, 2015 indicated that appellant sustained a work-related lower back injury on August 10, 2015 which occurred when she was lifting metal trays. The report advised that she was experiencing bilateral lower back pain and listed findings on examination. The report also contained similar treatment notes indicating findings on examination dated September 8 and 28, October 21, and November 4, 2015. These handwritten notes contained illegible signatures, but no other notation of the author of the reports. None of these treatment notes contained a probative, rationalized medical opinion establishing that appellant sustained a condition or disability causally related to the August 10, 2014 work incident.

A Form CA-17 dated October 7, 2015, again indicated that appellant was experiencing lower back pain. On this form the physician checked a box marked "yes" which indicated that

appellant's account of the August 10, 2015 work incident was consistent with how the injury occurred. The report contained a physician's signature which was illegible.

By decision dated November 19, 2015, OWCP denied the claim, finding that appellant failed to provide medical evidence sufficient to establish a lower back injury causally related to the accepted August 10, 2015 work incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish 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 timely filed within the applicable time limitation period 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.³ 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.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

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference as to causal relationship.⁷

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 her condition was caused, precipitated, or aggravated by her employment is sufficient to establish causal relationship.⁸ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

² *Id.*

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

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

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

⁷ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁸ *Id.*

ANALYSIS

It is uncontested that appellant experienced pain in her lower back while lifting trays of mail on August 10, 2015. The question of whether an employment incident caused a personal injury can only be established by probative medical evidence.⁹ The Board finds that appellant failed to submit rationalized, probative medical evidence to establish that the August 10, 2015 employment incident caused an injury.

Appellant submitted an August 27, 2015 emergency room report and work restriction notes from Dr. Conway, a lumbar CAT scan report, and treatment notes of an unknown medical provider from August 31 and September 2015. The weight of medical opinion evidence is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts of the case, the medical history provided the care of analysis manifested, and the medical rationale expressed in support of stated conclusions.¹⁰

Dr. Conway related appellant's complaints of lower back pain and presented a diagnosis of degenerative joint disease, but did not provide a rationalized medical opinion that these findings were causally related to factors of her employment. Her reports do not provide a probative, rationalized medical opinion that appellant's claimed condition or disability was causally related to employment factors. Dr. Conway's opinion on causal relationship is of limited probative value as it does not contain sufficient medical rationale as to how or why appellant's claimed degenerative joint disease condition was currently affected by or related to factors of employment.¹¹

Furthermore, these two reports contain an illegible signature of a medical provider. The Board has held that notes containing illegible signatures lack probative value as they are not considered evidence from a qualified physician under FECA.¹²

The September 16 and October 20, 2015 form reports which supported causal relationship with a check mark are insufficient to establish the claim, as the Board has held that without further explanation or rationale, a checked box is insufficient to establish causation.¹³ Appellant has failed to submit a report from a physician which contained a probative, rationalized opinion regarding whether the August 10, 2015 work incident caused a personal injury. She has therefore failed to provide a report containing sufficient medical evidence demonstrating a causal connection between her August 10, 2015 work incident and her claimed lower back injury.

⁹ *Supra* note 5.

¹⁰ *See Anna C. Leanza*, 48 ECAB 115 (1996).

¹¹ *William C. Thomas*, 45 ECAB 591 (1994).

¹² *See Sheila A. Johnson*, 46 ECAB 323, 327 (1994).

¹³ *Debra S. King*, 44 ECAB 203 (1992); *Salvatore Dante Roscello*, 31 ECAB 247 (1979).

OWCP advised appellant of the evidence required to establish her claim. However, appellant failed to submit such evidence. Causal relationship must be established by rationalized medical opinion evidence. Appellant did not provide a medical opinion which describes or explains the medical process through which the August 10, 2015 work accident would have caused the claimed injury. Accordingly, she did not establish that she sustained a lower back injury in the performance of duty. OWCP properly denied appellant's 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.

CONCLUSION

The Board finds that appellant has failed to establish a lower back injury causally related to the August 10, 2015 incident.

ORDER

IT IS HEREBY ORDERED THAT the November 19, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 8, 2017
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board