

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

_____)
A.W., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Detroit, MI, Employer)
_____)

Docket No. 21-0957
Issued: December 8, 2021

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On June 9, 2021 appellant filed a timely appeal from a June 3, 2021 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 this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a lower back condition causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On March 8, 2021 appellant, then a 55-year-old tractor-trailer operator, filed an occupational disease claim (Form CA-2) alleging that he experienced lower back pain due to a

¹ 5 U.S.C. § 8101 *et seq.*

strain while in the performance of duty. He noted that he first became aware of his condition and realized its relation to his federal employment on March 4, 2021. Appellant did not stop work.

In an undated statement, appellant explained that he developed pain in the left side of his lower back, which had been present for several months. He initially assumed it was related to arthritis in his back; however, he subsequently underwent a magnetic resonance imaging (MRI) scan that revealed a pinch nerve. Appellant asserted that his condition was a result of the nature of his work, which included unloading heavy mail racks weighing up to 400 pounds, as well as repetitive twisting and bending motions.

In a development letter dated March 11, 2021, OWCP informed appellant that it had received no evidence in support of his occupational disease claim. It advised him of the evidence necessary to establish his claim and provided a questionnaire for his completion regarding a description of his employment activities. OWCP also requested he provide a narrative medical report from appellant's treating physician, which included a detailed description of findings and a diagnosis, explaining how the claimed employment incident caused, contributed to, or aggravated his medical conditions. It afforded him 30 days to submit the necessary evidence.

In a February 11, 2021 note, Dr. Faiz Mansour, a Board-certified internal medicine specialist, related that appellant presented with complaints of chronic and constant lower back pain radiating into his left lower extremity. He described the pain as deep, sharp, throbbing and stabbing in nature. Appellant alleged that he had been experiencing the pain for years and that it had slightly worsened. Dr. Mansour identified aggravating factors of movement and palpation of the painful area.

On February 25, 2021 Dr. Paul John Arpasi, a Board-certified radiologist, performed an MRI scan of appellant's lower back, which revealed intervertebral disc height loss and desiccation along the posterior aspect and broad-based disc bulge and facet arthropathy resulting in moderate right and severe left neural foraminal narrowing with impingement of the exiting L5 nerve roots. He diagnosed spondylosis, intervertebral disc disorders, and radiculopathy of the lumbar region, as well as muscle spasm of the back.

On March 26, 2021 Dr. Braden Boji, a Board-certified physiatrist, noted complaints of left-sided, greater than right side, low back pain, radiating into his left thigh and gluteal area. He related that appellant's pain began in 2020 while unloading a trailer containing heavy carts of mail. Dr. Boji referred appellant for physical therapy treatment and recommended a follow-up visit in six to eight weeks.

In an April 1, 2021 response to OWCP's development questionnaire, appellant detailed a history of back pain beginning in March or April 2020. He noted that his job responsibilities included loading racks and containers of mail weighing as much 300 pounds. Appellant described the process of unloading the racks as swiveling each rack out of position and pushing them off the trailer. He indicated that he did not initially report any pain to his supervisor until his pinched nerve diagnosis. Appellant asserted that his outside activities are very limited. He noted that he was only seeking compensation for medical treatment related to his alleged employment injury.

By decision dated June 3, 2021, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish a lower back condition causally related to the accepted factors of his federal employment.

LEGAL PRECEDENT

A claimant seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim, including 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 of FECA,³ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴ 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.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ The opinion of the physician must be based upon a complete factual and medical background, 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 factor.⁸

² *Supra* note 1.

³ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

⁷ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018). *See also T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a lower back condition causally related to the accepted factors of his federal employment.

In support of his claim, appellant submitted a report from Dr. Mansour dated February 11, 2021 who noted appellant's complaints of chronic and constant lower back pain aggravated by movement and palpation. However, Dr. Mansour did not offer an opinion on the cause of appellant's back pain. Medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.⁹ Thus, this evidence is insufficient to meet appellant's burden of proof.

Likewise, Dr. Boji, in his March 26, 2021 note, indicated that appellant had complaints of left-sided lower back pain radiating into his left thigh and gluteal area, which he asserted began in 2020 while unloading heavy trailers of mail. However, as noted above, a report that does not offer an opinion on the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁰ As such, Dr. Boji's report is also of no probative value.

The remaining evidence of record includes a February 25, 2021 MRI scan interpreted by Dr. Arpasi. The Board has held that diagnostic tests, standing alone, lack probative value on the issue of causal relationship as they do not address the relationship between the accepted employment factors, and a diagnosed condition.¹¹ For this reason, this report is insufficient to meet appellant's burden of proof.

As there is no rationalized medical evidence explaining how appellant's employment duties caused or aggravated his diagnosed conditions, the Board finds that he has not met his burden of proof.

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 not met his burden of proof to establish a lower back condition causally related to the accepted factors of his federal employment.

⁹ *S.M.*, Docket No. 19-0556 (issued September 6, 2019); *L.B., id.*; *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁰ *Id.*

¹¹ *See W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

ORDER

IT IS HEREBY ORDERED THAT the June 3, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 8, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board