

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN J. LYONS and DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT, Spokane, WA

*Docket No. 02-156; Submitted on the Record;
Issued July 10, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
A. PETER KANJORSKI

The issue is whether appellant established that he sustained an injury in the performance of duty.

On June 26, 2001 appellant, a 69-year-old safety and occupational health specialist, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he suffered from tendinitis in his right upper extremity as a consequence of his federal employment. Appellant attributed his condition to performing "extensive work on a computer keyboard." In support of his claim, appellant submitted emergency room treatment records dated June 26, 2001. However, these records were essentially illegible and did not clearly indicate a diagnosis of an employment-related condition.

By letter dated July 17, 2001, the Office of Workers' Compensation Programs requested additional factual and medical information. The Office further advised appellant that he had approximately 30 days within which to submit the requested information.

Appellant submitted an August 16, 2001 statement describing his employment duties and further advised the Office that the requested medical evidence would be forthcoming.

In a decision dated October 4, 2001, the Office denied appellant's claim on the basis that he failed to establish that an injury occurred as alleged. The Office further indicated that no additional medical evidence had been received despite its July 17, 2001 request.

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty.

In an occupational disease claim, in order to establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the

presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by appellant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.¹

In the instant case, the record is devoid of any medical evidence diagnosing an employment-related condition. The June 26, 2001 emergency room discharge instructions do not clearly indicate a particular diagnosis. These records also do not indicate that the treatment appellant received that day was related to his federal employment. Although appellant claimed that he suffered from tendinitis as a result of his employment, the medical evidence of record fails to include such a diagnosis. Accordingly, appellant failed to establish that he sustained an injury as alleged.²

The October 4, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 10, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

A. Peter Kanjorski
Alternate Member

¹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

² Appellant submitted additional evidence on appeal. As this evidence apparently was not submitted to the Office prior to the issuance of its October 4, 2001 decision, the Board cannot consider appellant's newly submitted evidence. 20 C.F.R. § 501.2(c). This information can be submitted to the Office with a request for reconsideration.