

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN P. TOUSAINT and U.S. POSTAL SERVICE,
POST OFFICE, Bay City, MI

*Docket No. 02-1490; Submitted on the Record;
Issued October 8, 2002*

DECISION and ORDER

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

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

On May 9, 2001 appellant, then a 47-year-old letter carrier, filed an occupational injury claim alleging that he sustained a right shoulder/rotator cuff injury. Regarding the relationship of the claimed injury to his employment, appellant stated, “[i]njured my right shoulder carrying mail in December 1985. First surgery August 1992. Reinjured my shoulder in 1993. Second surgery in January 2001.” He indicated that in December 1985 he first became aware of his injury and first realized that it was related to his employment. Appellant stopped work on January 30, 2001 and returned to work on April 16, 2001.¹ By decision dated July 23, 2001, the Office of Workers’ Compensation Programs denied appellant’s claim on the grounds that he did not submit sufficient evidence to establish that he sustained an occupational injury in the performance of duty.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an occupational injury in the performance of duty.

An employee seeking benefits under the Federal Employees’ Compensation Act² has the burden of establishing the essential elements of his 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, 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

¹ Appellant attached a record of sick leave used between July 2000 and May 2001.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To establish that an injury was sustained in the performance of duty in an occupational disease claim, 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 the claimant 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. The medical evidence required to establish a causal relationship is rationalized medical opinion 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.⁵

The Board finds that appellant did not establish his occupational injury claim in that he failed to provide an adequate factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the claimed occupational injury. Appellant did not provide a clear picture of the specific employment factors which he believed caused the claimed injury to his right shoulder and rotator cuff.⁶ The Office provided appellant an opportunity to provide such information, but he failed to do so within the allotted period.⁷ Moreover, appellant did not submit any medical evidence which related his claimed condition to specific employment factors.

For these reasons, appellant did not meet his burden of proof to establish that he sustained an occupational injury in the performance of duty.

⁴ See *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁵ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁶ He only generally indicated that he injured his right shoulder carrying mail in December 1985.

⁷ By letter dated June 19, 2001, the Office requested that appellant submit additional factual evidence regarding the employment-related activities which he believed contributed to his condition. It further requested that appellant indicate whether he was required to perform heavy lifting, pushing, pulling, bending, stooping or other strenuous physical movements on a repeated basis. The Office also asked appellant to provide additional medical evidence which included an opinion that employment factors contributed his claimed condition. The Office indicated that it would render a decision on appellant's claim based on the evidence of file within approximately 30 days of the date of its letter.

The July 26, 2001 decision of the Office of Workers' Compensation Programs is affirmed.⁸

Dated, Washington, DC
October 8, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

A. Peter Kanjorski
Alternate Member

⁸ Appellant submitted additional evidence to the Board; however, the jurisdiction of the Board is limited to the evidence that was before the Office at the time it issued its final decision; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting additional evidence to the Office along with a request for reconsideration.