

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VINCENT M. COOKE and U.S. POSTAL SERVICE,
POST OFFICE, Washington, DC

*Docket No. 02-1822; Submitted on the Record;
Issued January 17, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury to his left shoulder in the performance of duty.

On December 17, 2001 appellant, then a 47-year-old letter carrier, filed a notice of occupational disease and claim for compensation, Form CA-2, alleging that on November 23, 2001 he realized that his left rotator cuff injury was causally related to his federal employment. He stated: “[b]ecause of the location of the injury to the left shoulder and that is the shoulder in which I carry my mailbag” he felt his work conditions caused his injury. On the reverse of the form, appellant’s supervisor indicated that appellant stopped work on November 23, 2001 and returned to work on December 11, 2001.

Evidence accompanying the claim consisted of a form report dated December 11, 2001 and signed by Dr. Charles E. Emich, a Board-certified orthopedic surgeon, who diagnosed appellant’s condition as left shoulder strain and impingement syndrome. Dr. Emich opined that that appellant would be fit to return to work, with some restrictions, on December 17, 2001.

In a February 7, 2002 letter, the Office of Workers’ Compensation Programs advised appellant that the information submitted in his claim was not sufficient to determine whether appellant was eligible under the Federal Employees’ Compensation Act. The Office advised appellant of the additional medical and factual evidence needed to support his claim. In particular, appellant was directed to provide a comprehensive medical report from his treating physician.

By decision dated March 11, 2002, the Office denied appellant’s claim. The Office found that, while the evidence of file supported that appellant experienced the claimed work factor, the medical evidence was not sufficient to establish that appellant’s shoulder injury was caused by employment factors. Therefore, it was determined that an injury within the meaning of the Act was not demonstrated.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury to his left shoulder in the performance of duty.

An employee seeking benefits under the Act¹ has the burden of establishing that 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 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.² These are essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

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 claimant. The medical evidence required to establish causal relationship, generally, 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.⁴

In the instant case, it is not disputed that appellant is an employee or that he suffered an injury to his left shoulder. However, there is insufficient evidence to establish that the injury is due to factors of his employment. The December 11, 2001 form report from Dr. Emich diagnosed appellant’s condition as left shoulder strain and impingement syndrome. However, Dr. Emich did not provide a medical opinion as to how appellant’s condition was caused or aggravated by his work activities.

As noted above, part of the burden of proof includes the submission of medical evidence establishing that the claimed condition is causally related to employment factors. As appellant has not submitted such evidence, he has not met his burden of proof in establishing his claim.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Id.*

The decision of the Office of Workers' Compensation Programs dated March 11, 2002 is hereby affirmed.

Dated, Washington, DC
January 17, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member