

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROLAND BAILEY and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Jacksonville, FL

*Docket No. 03-818; Submitted on the Record;
Issued May 28, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden of proof to establish a right shoulder injury causally related to factors of his federal employment.

On February 9, 2001 appellant, then a 46-year-old mailhandler, filed a notice of occupational disease and claim for compensation (Form CA-2). Appellant indicated on the claim form that he noticed pain and weakness in his right shoulder while working on August 3, 2000. In a narrative statement dated February 9, 2001, appellant reported that on or about August 3, 2000 he began to experience severe pain and weakness in his right shoulder; he underwent right shoulder surgery on September 25, 2000. Appellant stated that the shoulder injury was consistent with the type of work he performed.

In a decision dated August 21, 2001, the Office of Workers' Compensation Programs denied the claim for compensation. The Office found that appellant had not provided a statement describing the alleged employment factors that contributed to a right shoulder injury.

By letter dated July 15, 2002, appellant requested reconsideration of his claim. Appellant noted that his job consisted of repetitive overhead lifting, dispatching mail, loading and pushing mail containers for approximately 12 years. He also reported that he was working light duty with lifting restrictions.

In a decision dated August 21, 2002, the Office determined that the evidence was insufficient to warrant modification of the prior Office decision. The Office found that the medical evidence did not establish causal relationship between the employment factors and a right shoulder condition.¹

¹ The Office stated that "fact of injury has been met, but causal relationship has not." In order to establish fact of injury, there must be probative medical evidence on causal relationship that is sufficient to meet appellant's burden of proof. *See, e.g., Shirley A. Temple*, 48 ECAB 404 (1997). The Office did not accept any condition as employment related and, therefore, it is incorrect to state that fact of injury has been met.

The Board finds that appellant did not meet his burden of proof to establish a right shoulder injury causally related to his federal employment.

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.² The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and his federal employment.³ Neither the fact that the condition became manifest during a period of federal employment, nor the belief of appellant that the condition was caused or aggravated by his federal employment, is sufficient to establish causal relation.⁴

In this case, appellant noted that his job as a mailhandler involved overhead lifting, dispatching mail, loading and pushing mail containers. In a report dated May 2, 2001, Dr. Fady El-Bahri, an orthopedic surgeon, indicated that a magnetic resonance imaging dated August 25, 2000 revealed moderate acromioclavicular joint degenerative change with compression on the supraspinatus. Dr. El-Bahri diagnosed a right shoulder impingement syndrome, and indicated that on September 25, 2000 appellant underwent right shoulder arthroscopy with decompression and rotator cuff repair.

In order to meet his burden of proof, appellant must submit a reasoned medical opinion on causal relationship between the diagnosed condition and the identified employment factors. The medical evidence of record, however, is not of sufficient probative value on the issue of causal relationship to meet appellant's burden. In the May 2, 2001 report, Dr. El-Bahri does not discuss appellant's employment and states that appellant "denied having any injury." In a treatment note dated April 3, 2002, Dr. El-Bahri diagnosed status post right shoulder arthroscopy with rotator cuff repair; he stated that "we did inform [appellant] that repetitive motions over the years with his job can definitely contribute to his shoulder injury." Dr. El-Bahri does not provide a complete history, a full description of appellant's employment duties, or a reasoned medical opinion on causal relationship between a right shoulder impingement syndrome and the employment factors.

It is, as noted above, appellant's burden to submit the necessary medical evidence in support of his claim. In the absence of a reasoned medical opinion, the Board finds that appellant has not met his burden in this case.

² *Victor J. Woodhams*, 41 ECAB 345 (1989).

³ *See Walter D. Morehead*, 31 ECAB 188 (1979).

⁴ *Manuel Garcia*, 37 ECAB 767 (1986).

The decision of the Office of Workers' Compensation Programs dated August 21, 2002 is modified to reflect that fact of injury has not been established, and affirmed as modified.

Dated, Washington, DC
May 28, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member