U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID A. ESTY and U.S. POSTAL SERVICE,
POST OFFICE, Gorham, ME

Docket No. 03-1733; Submitted on the Record;
Issued October 17, 2003

DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant met his burden of proof in establishing that he sustained an injury in the performance of duty on November 2, 2002, as alleged.

On November 4, 2002 appellant, then a 49-year-old acting supervisor, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that, on November 2, 2002, while reaching for a drink, he injured his right thumb.

Appellant was initially treated on November 4, 2002 by Dr. Steven Johnson, a Board-certified internist, who indicated that appellant sustained a ruptured extensor tendon in his right thumb. Dr. Johnson noted appellant's history as follows: "[Appellant] works at the [employing establishment] and yesterday went to reach for something and felt a snap in the right wrist. That was followed by a burning sensation and swelling over the radial aspect of the wrist." He checked a box on a form indicating that appellant's injury was work related, and referred appellant to Dr. Samuel S. Scott, a Board-certified orthopedic surgeon, who also completed a form dated November 4, 2002 indicating that appellant's injury was work related. In a November 4, 2002 medical report, Dr. Scott indicated that appellant experienced a sudden loss of the "ability to extend his thumb at the interphalangeal (IP) and metatarsophalangeal (MP) joints." He stated:

> "An x-ray was done in the office today showing no evidence of any bony pathology. He does, however, have complete loss of the EPL function on the right side.
>
> "My sense is that this is an attritional rupture of unknown etiology and warrants attention from a surgical standpoint with an EIP transfer."

On November 14, 2002 Dr. Scott operated on appellant's right wrist.

By letter dated December 17, 2002, the Office of Workers' Compensation Programs requested that appellant submit further information in support of his claim. Appellant responded by letter received by the Office on December 26, 2002. Appellant noted that, on the date of his injury, after casing mail he returned to his desk and began working on paperwork and that, when he reached for a water bottle, he felt his wrist crack followed by a burning sensation. He noticed that his thumb had closed and would not reopen. He further indicated that he had no prior injury to his hand, wrist or thumb. Appellant submitted medical reports by Dr. Scott that had been previously submitted and physical therapy notes dated December 31, 2002.

By decision dated January 29, 2003, the Office denied appellant's claim as it found that the medical evidence did not demonstrate that appellant's medical condition was related to the established work event.

The Board finds that the evidence of record fails to support that appellant sustained an injury in the performance of duty on November 2, 2002, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing 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 the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[3]

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components, which must be addressed in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[4] Appellant has met this criteria. The second component is whether the employment incident caused a person's injury and generally can only be established by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such causal relationship.[5] 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

[1] 5 U.S.C. §§ 8101-8193.

[2] *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[3] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

[4] *Caroline Thomas*, 51 ECAB 451, 455 (2000).

[5] *Duane B. Harris*, 49 ECAB 170, 173 (1997).

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.[6]

In the instant case, appellant has not submitted rationalized medical opinion evidence establishing that the employment incident caused appellant's injury. Although both Drs. Johnson and Scott checked a box on a form indicating that appellant's ruptured extensor tendon in his right thumb was employment related, neither provided any medical explanation as to how this occurred. Dr. Johnson mentions the employment incident, but does not clearly relate it to the ruptured tendon. In a November 4, 2002 report, Dr. Scott, the Board-certified orthopedic surgeon who performed surgery on appellant's wrist, stated that appellant's condition was "of unknown etiology." Finally, reports by a physical therapist are of no probative value as a physical therapist is not a physician as defined under the Act and therefore is not competent to give a medical opinion.[7]

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during the period of employment nor his belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.[8] Causal relationship must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office therefore properly denied appellant's claim for compensation.

[6] *Id.*

[7] *See* 5 U.S.C. § 8102(2); *Jennifer L. Sharp*, 48 ECAB 209 (1996); *Thomas Horsfall*, 48 ECAB 180 (1996).

[8] *Victor J. Woodhams*, 41 ECAB 345 (1989).

The decision of the Office of Workers' Compensation Programs dated January 29, 2003 is hereby affirmed.

Dated, Washington, DC
October 17, 2003

Alec J. Koromilas
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member