United States Department of Labor
Employees' Compensation Appeals Board

CLARENCE D. BELL, Appellant	)	
and	)	**Docket No. 04-969**
	)	**Issued: August 20, 2004**
U.S. POSTAL SERVICE, POST OFFICE, St. Petersburg, FL, Employer	)	

Appearances:
Clarence D. Bell, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On March 2, 2004 appellant filed a timely appeal from a decision of the Office of Workers' Compensation Programs dated January 5, 2004 which denied appellant's claim for a right shoulder condition. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3 the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant sustained a right shoulder injury and excision of a right biceps tumor, causally related to factors of his federal employment.

FACTUAL HISTORY

On October 1, 2002 appellant, then a 50-year-old mail handler, filed a claim alleging that on January 2, 2002 he became aware that he developed an occupational disease affecting his right shoulder and right biceps tendon, causally related to repetitive lifting and unsleeving trayed mail, lifting tubs of mail and transferring mail to other containers. Appellant claimed that he required right shoulder surgery for a partial acromioplasty and excision of a benign tumor of the

deep right biceps tendon. He noted that he had had no particular history of injury but had pain with overhead movements.

Appellant had surgery on September 13, 2002 for impingement syndrome and an intermuscular tumor, and he returned to work on September 28, 2002 with restrictions of light duty only, no lifting and hand stamping mail. Appellant's diagnosis at the time of surgery was impingement syndrome, chronic right shoulder pain with supraspinatus tendon tendinitis and a mass in the right antecubital region, which was clinically an intermuscular lipoma.

Appellant claimed that his work required that he dump hampers by reaching over the side guard and onto a belt to take out mail that had to be separated, and that he normally reached two to four feet over one side. Appellant performed letter breakdown where he had to bend over and pull out trays of mail that had to be unstrapped and then placed back into empty containers and push the mail weighing between 10 to 20 pounds over to automation. He noted that containers weighed between 209 and 245 pounds empty and 800 to 1,100 pounds full. The largest containers were noted to weigh 1,700 pounds when full.

On September 23, 2002 Dr. William C. Cottrell, a general surgeon, noted appellant's complaint of right shoulder pain, his successful postoperative status and removed his sutures. On September 27, 2002 he noted right shoulder irritation and opined that appellant was having a suture reaction without cellulitis. Dr. Cottrell changed appellant's dressing. On October 14, 2002 he noted that appellant's wounds were healing with some slight suture reaction. Further physical therapy was recommended.

On October 15, 2002 Dr. Paul A. Lunseth, a Board-certified orthopedic surgeon, diagnosed adhesive capsulitis of the right shoulder. Dr. Lunseth noted that appellant was totally disabled from September 13, 2002 and was estimated as returning to work on October 20, 2002.

On October 28, 2002 Dr. Lunseth noted that appellant was having serious pain. On October 29, 2002 he noted that it was six weeks postoperative of the right shoulder with good range of motion but with significant pain. Physical therapy was prescribed along with medication. On October 31, 2002 appellant was scheduled for manipulation of the shoulder under anesthesia and injection of medication into the subacromial area. On November 1, 2002 Dr. Lunseth performed manipulation of appellant's right shoulder under anesthesia. On November 4, 2002 diagnosed adhesive capsulitis of the right shoulder. On November 11, 2002 Dr. Lunseth scheduled appellant's right shoulder for injection. On December 3, 2002 he projected appellant's return to full duty in one month and noted that he was presently on light-duty activity.

By letter dated November 14, 2002, the Office requested further information regarding the work factors implicated in causing his condition and a comprehensive medical report with a physician's rationalized opinion on causal relationship.

Appellant submitted a September 9, 2002 report from Dr. Lunseth, who noted that appellant had been having shoulder problems and was treated with anti-inflammatory medications persistent shoulder pain which bothered appellant to a moderate degree on a very

frequent and ever-increasing basis. Dr. Lunseth noted that an MRI scan showed inflammation of the supraspinatus without evidence of a tear. He noted that at the elbow appellant did have a palpable mass but he did not discuss causation. Dr. Lunseth diagnosed impingement syndrome, chronic right shoulder pain with supraspinatus tendon tendinitis, and a mass in the right antecubital region, clinically an intrermuscular lipoma. He discussed the relief appellant should get from surgery.

On a December 3, 2002 attending physician's CA-20 form report Dr. Lunseth checked "yes" to the question of whether the condition found was caused or aggravated by an employment activity. However, no further explanation was provided. Dr. Lunseth diagnosed impingement syndrome of the right shoulder and lipoma of the right biceps. He noted that appellant had persistent numbness and tenderness and was totally disabled from September 13, 2002 until the present.

By decision dated January 14, 2003, the Office rejected appellant's claim finding that he had not submitted medical or factual evidence that established that the claimed right shoulder condition was causally related to factors of his federal employment.

On January 22, 2003 appellant filed a claim for traumatic injury alleging that on September 9, 2002 as he was unstrapping and unsleeving trays of mail he developed a lump on his right bicep, which was diagnosed as a strain or tear of the right bicep. He submitted several hospital records which were largely illegible and unsigned.

Following a February 3, 2003 MRI scan of the right shoulder Dr. Charles W. Hirt, a Board-certified radiologist, reported that findings were suggestive of tendinosis involving the supraspinatus tendon, associated with a small effusion.

By letter dated February 11, 2003, appellant requested an oral hearing before an Office hearing representative.

By report dated February 14, 2003, Dr. Lunseth reported the MRI scan showed tendinosis of the supraspinatus tendon but no evidence to suggest that there was a tear of the tendon. Dr. Lunseth noted that appellant had intermittent pain in his shoulder "which was probably the result of his work with repetitive lifting and with his reaching to do what is known as unsleeve the mail. He repetitively, throughout his work shift, reaches out, pulls back and unsleeves the mail and this type of repetitive activity is quite consistent with, in my opinion, his work as related." Dr. Lunseth noted that appellant had to reach over the side of the hamper onto the belt to remove the mail and separate it and that this repetitive activity injured his right shoulder. He also sustained an injury to his elbow, and a mass was removed from within the tendon and distal portion of the muscle tendinous junction. Dr. Lunseth noted that appellant's work entailed unsleeving the mail which frequently weighed 200 to 250 pounds when empty and 800 to 1,100 pounds when full. He noted that the equipment was repetitively used and appellant's job was to stack the trays onto a hamper. Upon physical examination, Dr. Lunseth noted that appellant had excellent range of motion with full extension of the shoulder and full abduction. He noted that appellant had full flexion and extension at the elbow without crepitation, and he still had tenderness over those areas, probably secondary to some chronic scarring of the tendons.

On June 23, 2003 Dr. Lunseth again evaluated appellant and noted that he still had shoulder pain along the course of the biceps tendon as well as in the area of the supraspinatus tendon. He noted that appellant also had subacromial pain and anterior shoulder pain, which was aggravated by moving the arm around, and therefore he remained on light duty at the employing establishment.

On July 11, 2003 appellant underwent a second opinion evaluation with Dr. C. Barry Craythorne, a Board-certified orthopedic surgeon, who reviewed the medical history of right shoulder pain, surgery and manipulation under anesthesia. He diagnosed residual postoperative pain following an open acromioplasty of the right shoulder with clinical resolution of adhesive capsulitis following manipulation under anesthesia. Dr. Craythorne injected Lidocaine and Kenalog into appellant's right subacromial space and recommended oral medication for continuing symptom management. Further surgery was not recommended.

Appellant was followed up with examination by Dr. Lunseth on August 5, 2003 who discussed further treatment and maintenance on light duty.

A hearing was held on October 24, 2003 at which appellant testified that prior to starting work at the employing establishment he had no right shoulder problem, that his repetitive duty as a mail handler strained his right arm and shoulder, and that he used his right upper extremity for almost everything at work.

Appellant provided a December 17, 2003 report from Dr. Michael A. Wasylik, a Board-certified orthopedic surgeon, who noted that he had treated appellant for both shoulders since July 15, 1997 and that he suffered from degenerative joint disease. Dr. Wasylik noted that appellant's condition was not related to any accident or injury.

By decision dated January 5, 2004, the Office hearing representative denied appellant's claim, finding that his right upper extremity condition was not causally related to his federal employment. The hearing representative found that none of the medical evidence contained a rationalized opinion establishing a causal relationship between the factors of appellant's federal employment and his right upper extremity conditions.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his claim, including the fact that he 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]

[1] 5 U.S.C. § 8101 *et seq.*

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

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;[3] (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;[4] 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.[5] 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,[6] must be one of reasonable medical certainty,[7] 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.[8]

Speculative terms, such as what "may have ruptured," what "most likely happened," what "probably happened," or what "may be related," when used in medical reports, diminish the probative value of the medical opinion sufficiently to render it inadequate to establish causal relationship.[9]

The Board has held that a report wherein a physician merely checks "yes" as the answer to the question of whether appellant's condition has any relationship, by causation or aggravation, with an employment activity, without more, is conclusory, and that such a report has little probative value where there is no explanation or rationale supporting the opinion on causal relationship between the diagnosed condition and the employment-related injury.[10]

[3] *See Ronald K. White*, 37 ECAB 176, 178 (1985).

[4] *See Walter D. Morehead*, 31 ECAB 188, 194 (1979).

[5] *See generally Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

[6] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[7] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[8] *See William E. Enright*, 31 ECAB 426, 430 (1980).

[9] *Jacquelyn L. Oliver*, 48 ECAB 232 (1996). *Brian E. Flescher*, 40 ECAB 532 (1989).

[10] *See Lillian M. Jones*, 34 ECAB 379, 381 (1982).

The Board has frequently explained that the opinion of a physician that a condition is causally related to an employment injury because the employee was asymptomatic before the employment injury was insufficient, without supporting medical rationale, to establish causal relationship.[11]

Further, the Board has held that the opinion of a lay individual, such as an appellant, a social worker or a physical or occupational therapist, on causal relationship with factors of appellant's employment, is not probative medical evidence as the lay individual is not a medical specialist who can provide rationalized medical evidence.[12]

ANALYSIS

In the present case, appellant alleged that his employment duties caused his right shoulder impingement syndrome and biceps lipoma.

Appellant submitted several brief medical progress notes from Dr. Cottrell who addressed shoulder inflammation due to sutures, which he removed. However, the physician did not discuss the causal relationship of the condition for which appellant underwent surgery to any factors of his federal employment. Dr. Cottrell recommended physical therapy but he did not provide any support for appellant's claim of causal relationship with any factors of his employment. Therefore, Dr. Cottrell's brief medical progress reports are insufficient to establish appellant's claim.

Appellant submitted multiple reports from Dr. Lunseth, a Board-certified orthopedic surgeon, who diagnosed adhesive capsulitis of the right shoulder. On February 14, 2003 Dr. Lunseth opined that appellant had intermittent pain in his right shoulder "which was probably the result of his work with repetitive lifting." As he couched this opinion in speculative terms, it cannot be considered as being probative of causal relationship. Also on February 14, 2003 Dr. Lunseth stated that appellant had to reach over the side of the hamper onto the belt to remove mail and separate it and this had repetitively injured his right shoulder. However, he did not explain how this occurred to appellant or discuss the mechanics underlying the relationship. Without any medical explanation of causal relationship with specific employment factor, Dr. Lunseth's opinions are not highly probative. Dr. Lunseth stated that appellant hit his biceps which injured his elbow but he did not explain how this happened or why a contusion injury to the biceps affected appellant's elbow. Dr. Lunseth mentioned that appellant's biceps swelled and that they removed a mass from his tendon but he did not provide any explanation as to what caused the mass that was removed. As Dr. Lunseth's opinions are conclusory and are without sufficient medical explanation of causation, they are insufficient to establish appellant's claim. Dr. Lunseth discussed appellant's continuing right upper extremity pain and opined that he had inflammation of the supraspinatus without evidence of a tear. He opined that appellant had supraspinatus tendon tendinitis and underwent removal of a mass in the right antecubital region, but he did not discuss causation. On December 3, 2002 Dr. Lunseth checked "yes" to the CA-20

[11] *Id.*

[12] *See Sheila Arbour (Victor E. Arbour)*, 43 ECAB 779 (1992).

attending physician's report form question of whether the condition found was caused or aggravated by an employment factor, but he did not explain his positive answer. Dr. Lunseth merely noted that appellant had persistent numbness and tenderness, but he did not provide any opinion as to the causation of appellant's right shoulder condition or his antecubital mass causation. As Dr. Lunseth failed to discuss the causation of appellant's condition for which he underwent surgery, his "yes" answer on a form report is purely conclusory and therefore is insufficient to establish appellant's claim.

Appellant submitted a December 17, 2003 report from Dr. Wasylik, a Board-certified orthopedic and hand surgeon, who indicated that he had been treating appellant for both of his shoulders and who noted that appellant's condition was not related to any accident or injury related to his employment. This report negates a causal relationship between appellant's condition and the implemented employment factors. Therefore, this report does not establish appellant's occupational injury claim.

Dr. Lunseth referred appellant to Dr. Craythorne, who confirmed the diagnosis of post acromioplasty with adhesive capsulitis, and noted that appellant had been working on light duty without documented problems. Dr. Craythorne did not, however, provide any opinion as to the causal relationship of appellant's right upper extremity conditions and factors of his employment. Therefore, his second opinion examination does not support that appellant's right upper extremity conditions were causally related to the implicated employment factors including right upper extremity usage.

As appellant has not submitted any rationalized medical evidence which, based upon an accurate factual and medical background, concluded that appellant developed right shoulder impingement syndrome and an antecubital area mass, causally related to his physical employment duties.

CONCLUSION

Appellant has failed to establish that he developed right upper extremity conditions, causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 5, 2004 is hereby affirmed.

Issued: August 20, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member