

**United States Department of Labor
Employees' Compensation Appeals Board**

L.B., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Detroit, MI, Employer**

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**Docket No. 06-1191
Issued: October 10, 2006**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 3, 2006 appellant filed a timely appeal from a March 27, 2006 merit decision of the Office of Workers' Compensation Programs which denied her claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she has a left shoulder condition causally related to factors of her federal employment.

FACTUAL HISTORY

This case has previously been before the Board. In a March 8, 2006 decision, the Board found that the Office improperly denied appellant's August 4, 2005 reconsideration request on the grounds that she failed to demonstrate clear evidence of error. The Board found that appellant's reconsideration request was timely filed and remanded the case to the Office for

further review under sections 10.606 and 10.608 of the implementing regulations.¹ The law and the facts of the previous Board decision are incorporated herein by reference. On March 27, 2006 the Office issued a decision on the merits, finding that the medical evidence of record failed to establish that appellant's left shoulder condition was causally related to factors of her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁵ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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

¹ Docket No. 06-222 (issued March 8, 2006). On August 6, 2003 appellant, then a 44-year-old mail processing clerk, filed a Form CA-2, occupational disease claim, alleging that lifting tubs of mail and pulling heavy equipment caused painful tendinitis in her left shoulder. The employing establishment controverted the claim, noting that appellant had returned to limited duty on July 9, 2003 following accepted rotator cuff surgery on her right shoulder. The limited duty consisted of sitting and separating letter mail to be processed by machine. Appellant stopped work on July 10, 2003 and returned to limited duty on August 20, 2003.

² 5 U.S.C. §§ 8101-8193.

³ *Gary J. Watling*, 52 ECAB 278 (2001).

⁴ *Solomon Polen*, 51 ECAB 341 (2000).

⁵ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

condition and the specific employment factors identified by the claimant.⁶ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁷

ANALYSIS

The Board finds that appellant failed to meet her burden of proof to establish that she sustained a left shoulder condition caused by employment factors. The July 22, 2003 ultrasound study of the left shoulder does not contain an opinion regarding the cause of any diagnosed condition. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁸

The reports submitted by Dr. Terrence Lock, appellant's attending Board-certified orthopedic surgeon, are insufficient to meet her burden of proof. In unsigned reports dated July 14 and August 6, 2003, Dr. Lock noted her complaint of left shoulder pain. Examination findings included full range of motion with impingement signs. By report dated October 8, 2003, Dr. Lock advised that he took appellant off work due to the pain in her left shoulder, noting that the left upper extremity had become her dominant side due to the right shoulder surgery. In a November 12, 2003 report, he stated that he believed appellant's left shoulder condition was aggravated by job duties because she favored the left following surgery on the right. By report dated July 2, 2004, Dr. Lock diagnosed left shoulder impingement syndrome/rotator cuff tendinitis and opined that "contributing factors included the fact that due to her right shoulder surgery, she had to do more activities and rely much more so on her left shoulder and this precipitated some of her symptoms. Work activities could have increased symptoms such as casing mail, lifting magazines and pushing heavy equipment."

The fact that work activities produced pain or discomfort revelatory of an underlying condition does not raise an inference of causal relationship.⁹ While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.¹⁰ Dr. Lock did not address the limited-duty position appellant was working on the day she stopped work, July 10, 2003, when she had a sitting position sorting letter mail. Rather, he said that employment duties such as casing mail, lifting magazines and

⁶ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

⁷ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

⁸ *Willie M. Miller*, 53 ECAB 697 (2002).

⁹ *Jimmie H. Duckett*, 52 ECAB 332 (2001).

¹⁰ *Patricia J. Glenn*, 53 ECAB 159 (2001).

pushing heavy equipment could have increased her left shoulder symptoms. Dr. Lock's opinion is equivocal and not based on an accurate history.

The Board finds Dr. Lock's reports insufficient to establish that appellant has an employment-related left shoulder condition.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an employment-related left shoulder condition.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 27, 2006 be affirmed.

Issued: October 10, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board