United States Department of Labor
Employees' Compensation Appeals Board

D.C., Appellant	)	
and	)	**Docket No. 06-2029**
	)	**Issued: January 4, 2007**
U.S. POSTAL SERVICE, POST OFFICE, Chicago, IL, Employer	)	

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 September 1, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated July 17, 2006 finding that she failed to establish that she sustained an injury as alleged. 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 has met her burden of proof in establishing that she sustained an injury in the performance of duty.

FACTUAL HISTORY

On March 25, 2006 appellant, then a 44-year-old distribution clerk, filed an occupational disease claim alleging that on March 22, 2005 she experienced pain in her right wrist which began shooting to her arm and elbow causing numbness in her fingertips. She alleged that the more she cased mail, the more it aggravated her wrists, arms and hands. On her Form CA-2, appellant indicated that her condition was caused or aggravated by her employment. She did not

stop work.[1] In a March 24, 2006 statement, appellant repeated her allegations of wrist pain as she cased mail, her right hand became so painful that she started casing with her left hand to "compensate" for the right hand.

In a March 10, 2006 disability certificate, Dr. Percy Conrad May, a general practitioner, advised that appellant was totally incapacitated from March 15 to 20, 2006. The Office also received a treatment note signed by a nurse, who diagnosed fibromyalgia.

By letter dated May 19, 2006, the Office advised appellant that additional factual and medical evidence was needed to support her claim. It explained that a physician's opinion was crucial to her claim and allotted her 30 days to submit the requested information.

The Office subsequently received a June 13, 2006 magnetic resonance imaging (MRI) scan of the right wrist. Dr. Michael D. Smith, a Board-certified diagnostic radiologist, opined that no significant abnormality was present. He also noted that appellant had a cystic collection and possible mild tenosynovitis of the extensor carp-ulnaris tendon. In a June 14, 2006 MRI scan of the left wrist, Dr. Steven W. Fitzgerald, a Board-certified diagnostic radiologist, found a normal articulation of the left wrist with an unremarkable scapholunate ligament and triangular fibrocartilage complex. He also advised that appellant had mild diffuse extensor tenosynovitis.

By decision dated July 17, 2006, the Office denied appellant's claim finding that the medical evidence did not demonstrate that her wrist condition was related to the established work-related events.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] 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.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

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

[1] Appellant has a prior occupational disease claim for joint pain and depression. This claim was denied by the Office. Appellant also filed an appeal in conjunction with this claim. In a June 5, 2003 decision, the Board found that the Office did not abuse its discretion by refusing to reopen appellant's case for merit review under 5 U.S.C. § 8128(a) on the grounds that her application for review was not timely filed and failed to present clear evidence of error. Docket No. 02-1091 (issued June 5, 2003).

[2] 5 U.S.C. §§ 8101-8193.

[3] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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

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. 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.[5]

ANALYSIS

Appellant has established that she cased mail during the course of her employment as a clerk. The issue, therefore, is whether the medical evidence establishes that her employment caused or contributed to her wrist condition. Appellant has submitted insufficient medical evidence to establish that her wrist condition was caused or aggravated by casing mail at work or any other specific factors of her federal employment.

Appellant submitted a March 10, 2006 disability certificate from Dr. May; however, he did not provide a diagnosis or address causal relationship between appellant's employment and any disabling condition. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[6]

Appellant also submitted diagnostic reports dated June 13 and 14, 2006. However, these reports are insufficient to establish her claim. The physicians did not provide any opinion on the causal relationship of her wrist condition found on the MRI scans to her employment. Therefore, these reports have no probative value in establishing causal relationship.[7]

Appellant also submitted a nurse's note which contained a diagnosis of fibromyalgia. However, health care providers such as nurses, acupuncturists, physicians' assistants and

[5] *Id.*

[6] *Michael E. Smith*, 50 ECAB 313 (1999).

[7] *See id.*

physical therapists are not physicians under the Act. Thus, their opinions do not constitute medical evidence and have no weight or probative value.[8]

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.[9] Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[10] Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is no probative, rationalized medical evidence addressing and explaining why appellant's wrist condition was caused and/or aggravated by factors of her employment, she has not met her burden of proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of employment.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

[8] *See Jan A. White*, 34 ECAB 515, 518 (1983). *See* 5 U.S.C. § 8101(2). This subsection defines the term "physician." *See also Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

[9] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

[10] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 17, 2006 is affirmed.

Issued: January 4, 2007
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