

further evaluation and additional treatment.” Appellant alleged that he was taken several times to an emergency room by his supervisors, Ernest Green and Warren Bastian, for extreme swelling of his elbow, but was denied leave to see his orthopedic surgeon. In an accompanying witness statement, Robert Jamison indicated that he saw Mr. Bastian transport appellant from his work site to a local emergency room for treatment of his arm. In the attached July 31, 2006 supervisor’s report, Vernella Rogers stated that appellant had surgery on October 3, 2005 and reported for duty while still on medical leave. She further indicated that to her knowledge, appellant had never been denied medical leave.

The record contains a March 2, 2006 report of a magnetic resonance imaging (MRI) scan of the left elbow by Dr. Thomas M. Dietz, a treating physician. The report provides findings consistent with chronic tendinosis/tendinitis and partial tearing involving the distal triceps tendon. In a narrative statement dated May 15, 2006, appellant related that, in late October 2005, his division chief, Ms. Evans, informed him that, if he did not report for duty in Philadelphia by November 3, 2005, he would be considered absent without leave. Appellant alleged that, although he was scheduled to be on medical leave until January 2006 and was not fit for duty, he returned to work as requested. Upon his return to work in Philadelphia, his left elbow began to swell and required medical attention. Appellant alleged that Ms. Bastian would not allow him to return to New Orleans, where his surgery occurred, to receive medical treatment.

On August 10, 2006 the Office notified appellant that the evidence submitted was insufficient to establish his claim and advised him to provide additional documentation. Evidence requested included a physician’s opinion supported by a medical explanation as to how the reported work incident caused or aggravated the claimed injury.

Appellant submitted an undated statement from Bernard Stacey, a coworker, who indicated that, while he was deployed in Philadelphia, he saw appellant and his supervisor leaving the work site on several occasions, for the purpose of traveling to a local hospital. In a July 24, 2006 statement, Lynn Cammon, a coworker, related that she was aware that appellant was taken to the hospital several times by his supervisors during November 2005. In a November 29, 2005 email to Mr. Bastian, appellant stated that he had undergone left elbow surgery on October 3, 2005 and had been placed on medical leave of absence until January 2006. He indicated that he reported for duty in Philadelphia on November 3, 2005 at the request of Ms. Evans. Appellant allegedly informed his supervisor that he chose to work but only as long as he was able to seek medical attention or take sick leave as necessary. In a March 28, 2006 note to appellant, Mr. Green stated that he was aware of and hoped to accommodate appellant’s medical condition. He informed appellant that he was required to submit medical documentation of his need for treatment and/or leave.

Appellant submitted materials related to surgery scheduled for October 3, 2005; postoperative instructions from Northshore Regional Medical Center dated October 2, 2005; and an October 3, 2005 operative report from Dr. Charles W. Krieger, Jr., a Board-certified orthopedic surgeon, who performed an osteoplasty of the left elbow. The report indicated that appellant had a history of chronic pain and swelling of the left elbow for several years and provided pre and postoperative diagnoses of chronic olecranon bursitis and triceps tendinitis. In an October 28, 2005 work excuse, Dr. Krieger stated that appellant had elbow surgery on

October 3, 2005; was not fit for duty as of September 30, 2005; and would be fit for duty on or about January 2006.

Appellant submitted November 5, 2005 Thomas Jefferson University Hospital emergency department records reflecting his treatment for reported pain following the October 3, 2005 surgery on his left elbow. He stated that he “recently” bumped his elbow. The record also contains emergency department records, dated November 21 and 22, 2005, pertaining to treatment for complaints of pain in his left elbow following surgery. In return to work instructions dated November 22, 2005, Dr. Alan Forstater, Board-certified in the field of emergency medicine, stated that appellant was discharged on that date and would travel to his physician in New Orleans for a reexamination. Dr. Forstater indicated that appellant should be able to return to work with no restrictions in seven days.

By decision dated September 15, 2006, the Office denied appellant’s claim on the grounds that the medical evidence submitted did not establish a causal relationship between the accepted employment incident and appellant’s diagnosed condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act has the burden of proof to establish the essential elements of the 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 or specific condition for which compensation is claimed is causally related to the employment injury.¹ When an employee claims that he sustained a traumatic injury in the performance of duty, he must establish the fact of injury, namely, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged, and that such event, incident or exposure caused an injury.²

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.³ Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician’s rationalized opinion on whether there is a causal relationship between the claimant’s diagnosed condition and the established incident or factor of employment. The opinion must be based on a complete factual and medical background of the

¹ *Robert Broome*, 55 ECAB 339 (Docket No. 04-93, issued February 23, 2004); *see also Elaine Pendleton*, 40 ECAB 1143 (1989).

² *Betty J. Smith*, 54 ECAB 174 (2002); *see also Tracey P. Spillane*, 54 ECAB 608 (2003). The term “injury” as defined by the Act, refers to a disease proximately caused by the employment. 5 U.S.C. § 8101(5). *See* 20 C.F.R. § 10.5(q), (ee).

³ *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

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 established incident or factor of employment.⁴

An award of compensation may not be based on appellant's belief of causal relationship. 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 a causal relationship.⁵

ANALYSIS

The Office accepted that appellant was a federal employee, that he timely filed his claim for compensation benefits, and that the workplace incident occurred as alleged. Appellant returned to work following an October 3, 2005 surgical procedure on his left elbow, and was treated for residual pain after his surgery. The issue, therefore, is whether he has submitted sufficient medical evidence to establish that the employment incident caused an injury. The medical evidence does not contain a rationalized medical opinion establishing that the work-related incident caused or aggravated his left elbow condition or disability. Therefore, appellant has failed to satisfy his burden of proof.

In a March 2, 2006 report of an MRI scan, Dr. Dietz noted findings consistent with chronic tendinosis/tendinitis and partial tearing involving the distal triceps tendon. However, the report does not provide a history of injury or an opinion as to the cause of appellant's diagnosed condition. Medical evidence that does not offer any opinion on the cause of an employee's condition is of limited probative value.⁶ Dr. Krieger's October 3, 2005 operative report similarly is deficient in that it did not address the cause of appellant's condition. Work excuses from Drs. Krieger and Forstater dated October 28 and November 22, 2005 respectively, are also of diminished probative value, as they lack any opinion as to the cause of appellant's condition. Emergency department reports dated November 5, 21 and 22, 2005 bear illegible signatures. The Board notes that these reports are of limited probative value as they do not contain an opinion on causal relationship. Also, these reports, lacking proper identification, cannot be considered as probative evidence.⁷ Other medical evidence of record (including preprocedural testing instructions and day surgery unit postoperative instructions) which does not contain an opinion on causal relationship, is of no probative value.

Appellant expressed his belief that his left arm condition was work related. 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.⁸ Neither the fact that

⁴ *John W. Montoya*, 54 ECAB 306 (2003).

⁵ *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

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

⁷ *Merton J. Sills*, *supra* note 7.

⁸ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

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.⁹ Causal relationship must be substantiated by reasoned medical opinion evidence, which it is appellant's responsibility to submit. Therefore, appellant's belief that his condition was work related is not determinative.

There is no medical evidence of record that explains how appellant's condition was caused or aggravated by his employment. The Office advised appellant that it was his responsibility to provide a comprehensive medical report which described his symptoms, test results, diagnosis, treatment and the doctor's opinion, with medical reasons, on the cause of his condition. He failed to submit appropriate medical documentation in response to the Office's request. Appellant returned to work following an October 3, 2005 surgical procedure on his left elbow and was treated for residual pain after his surgery. He has not submitted medical evidence supporting his contention that his left elbow condition was caused or contributed to by his employment. As such, appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty causally related to factors of his federal employment.

CONCLUSION

Appellant has not met his burden of proof to establish that he sustained a traumatic injury causally related to his employment.

ORDER

IT IS HEREBY ORDERED THAT the September 15, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 7, 2007
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

⁹ *Id.*