

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

R.C., Appellant)

and)

DEPARTMENT OF HOMELAND SECURITY,)
TRANSPORTATION SECURITY)
ADMINISTRATION, St. Louis, MO, Employer)

**Docket No. 07-1326
Issued: November 14, 2007**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 18, 2007 appellant filed a timely appeal of the February 23, 2007 merit decision of the Office of Workers' Compensation Programs denying her claim for compensation. 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 met her burden of proof to establish that her left arm condition is causally related to factors of her federal employment.

FACTUAL HISTORY

On January 12, 2007 appellant, a 38-year-old transportation security screener, filed an occupational disease claim alleging that her left arm condition was due to repetitive lifting of bags. She first became aware of her condition on January 1, 2003 and its relation to her work on January 12, 2007. Appellant did not stop work.

By letter dated January 19, 2007, the Office advised appellant that the evidence was insufficient to establish her claim. It requested that she provide additional factual and medical evidence within 30 days, including a rationalized medical opinion addressing causal relationship of her left arm condition to factors of her federal employment.

In a February 14, 2007 statement, appellant noted that every day she lifted bags weighing approximately 5 to 99 pounds and loaded them onto a belt. She related that she also unloaded the bags and that she asked for help lifting bags weighing over 50 pounds. Appellant also stated that she pulled carts that held about 10 to 25 bags.

Medical evidence was received from Dr. Gary W. Farley, an orthopedic surgeon. In a January 19, 2007 referral to physical therapy, Dr. Farley diagnosed right ulnar wrist synovitis. In a February 6, 2007 referral for an electromyogram/nerve conduction velocity (EMG/NCV) study of appellant's bilateral upper extremities, he diagnosed carpal tunnel syndrome and cubital tunnel syndrome. A physical therapy appointment log was also submitted.

By decision dated February 23, 2007, the Office denied appellant's claim. The Office found that the medical evidence was insufficient to establish that the claimed left arm condition resulted from employment activities.¹

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.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

¹ On March 9, 2007 the Office received a February 8, 2007 EMG/NCV study and an undated/unsigned report addressed to Dr. Reynal Caldwell. In a March 14, 2007 letter to appellant, the Office noted receipt of this evidence but noted that no action would be taken until she followed the appeal rights that accompanied the February 23, 2007 decision. Before the Board, appellant has indicated that she seeks review of the Office's March 14, 2007 letter. However, the Office's March 14, 2007 letter is informational and does not purport to be a final decision accompanied by appeal rights. See 20 C.F.R. § 10.126 (notes the contents of a final decision of the Office). The Office's letter is informational in nature as it advises appellant to pursue her appeal rights if she disagreed with the February 23, 2007 decision. The Board may not consider any evidence submitted after the Office's February 23, 2007 decision, as the Board's review of the case is limited to the evidence which was before the Office at the time of its final decision. See 20 C.F.R. § 501.2(c).

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).

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 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 alleged that her job duties as a transportation security screener such as loading and unloading bags and pulling carts, caused or contributed to a left arm condition. The evidence shows that appellant performed such duties as part of her job. The issue is whether the medical evidence is sufficient to establish a diagnosed left arm condition causally related to these identified work factors.

Appellant submitted medical evidence from Dr. Farley dated January 19 and February 6, 2007 in the form of a referral. Although Dr. Farley diagnosed medical conditions in his referrals, none of the referrals included a rationalized medical opinion addressing the causal relationship between appellant's left arm condition and the identified employment factors. He did not discuss the specific job duties identified by appellant or provide a rationalized medical opinion explaining how those work factors caused or contributed to her diagnosed medical conditions.⁶ Thus, the evidence from Dr. Farley is of diminished probative value to the issue presented. The physical therapy appointment log has no relevance to the issue in the present case and, thus, is of no probative value.

The Board, therefore, finds that appellant has failed to submit probative medical evidence sufficient to establish that her left arm condition is causally related to employment factors. 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.⁷ 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

⁵ *Id.*

⁶ *Gary L. Fowler*, 45 ECAB 365 (1994).

⁷ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

causal relationship.⁸ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is no reasoned medical evidence explaining how appellant's employment duties caused or aggravated her left arm condition, appellant 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 her employment.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained a left arm condition causally related to factors of her employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 23, 2007 is affirmed.

Issued: November 14, 2007
Washington, DC

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

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

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

⁸ *Id.*