United States Department of Labor
Employees' Compensation Appeals Board

K.M., Appellant	)	
and	)	**Docket No. 08-2059**
	)	**Issued: April 17, 2009**
U.S. POSTAL SERVICE, POST OFFICE, Mobile, AL, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
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 July 21, 2008 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated June 20, 2008, 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 sustained a neck or arm injury in the performance of duty on December 20, 2007.

FACTUAL HISTORY

On December 21, 2007 appellant, then a 39-year-old mail processing clerk, filed a traumatic injury claim alleging that she sustained a neck and arm injury on December 20, 2007 when "I picked up a tray of mail and was sitting casing mail." She stopped working on December 21, 2007. The record indicates that appellant was treated on December 20, 2007 by Dr. Deanna Crozier, an emergency medicine specialist, who released her to light duty as of

December 24, 2007. In an undated note, Dr. Alain Shain, an internist, stated that appellant was under his care since December 20, 2007 and could return to work on January 12, 2008.

In a duty status report (Form CA-17) dated December 24, 2007, an internist diagnosed trapezial arm strain.[1] A Form CA-17 dated January 11, 2008 from Dr. Peter Sinks, a rheumatologist, described findings of acute and subacute neck and arm pain with weakness. In a January 16, 2008 CA-17 form, a Dr. Shain diagnosed musculoskeletal pain. The typewritten description of how the injury occurred stated, "casing letter mail, neck popped, right arm pain."

By undated attending physician's report (Form CA-20) received by the Office on February 11, 2008, Dr. Shain diagnosed musculoskeletal pain and checked a box "yes" the condition was causally related to employment activity. The history of injury provided was "pain neck [and] right arm."

In a March 18, 2008 decision, the Office denied the claim for compensation. It found that the medical evidence was insufficient to establish the claim.

Appellant requested reconsideration of her claim. She stated that on December 20, 2007 she had just picked up a tray of mail, turned around to place it on a ledge and began to case mail when her neck popped and she felt neck and arm pain. In a March 11, 2008 report, Dr. Shain stated that appellant was first treated on December 24, 2007 and reported she injured her right neck and arm at work on December 20, 2007. He noted that appellant had previous neck and arm pain involving the left arm. Dr. Shain diagnosed pain in the limb and pain in the neck, stating this was a musculoskeletal injury.

In a report dated April 9, 2008, Dr. Shain stated that appellant "has requested that we add a specific muscle injury code, which would be 728.9. Appellant has a trapezius muscle strain. As far as the specifics of the injury, [she] tells me that she was transferring or moving something at work, and her neck popped."

By decision dated June 20, 2008, the Office denied modification of the prior decision.

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides for the payment of compensation for "the disability or death of an employee resulting from personal injury sustained while in the performance of duty."[2] The phrase "sustained while in the performance of duty" in the Act is regarded as the equivalent of the commonly found requisite in workers' compensation law of "arising out of and in the course of employment."[3] An employee seeking benefits under the Act has the burden of establishing that he or she sustained an injury while in the performance of duty.[4] In order to determine whether an employee actually sustained an injury in the

[1] The signature appears to be Dr. Shain, although no other identification is provided.

[2] 5 U.S.C. § 8102(a).

[3] *Valerie C. Boward*, 50 ECAB 126 (1998).

[4] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally "fact of injury" consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the employment incident caused a personal injury, and generally this can be established only by medical evidence.[5]

The Office's procedures recognize that a claim may be accepted without a medical report when the condition is a minor one which can be identified on visual inspection.[6] In clear-cut traumatic injury claims, such as a fall resulting in a broken arm, a physician's affirmative statement is sufficient and no rationalized opinion on causal relationship is needed. In all other traumatic injury claims, a rationalized medical opinion supporting causal relationship is required.[7]

Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between a diagnosed condition and the identified employment factor. The opinion of the physician must be based on a complete factual and medical background, must be 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.[8]

ANALYSIS

Appellant alleged that on December 20, 2007 she picked up a tray of mail, turned and placed it on a ledge. She began casing mail when she felt a pop in her neck. There is no contrary evidence and the Office does not contest that the incident occurred as alleged. The evidence supports that appellant was in the course of employment.

As noted, appellant must also submit rationalized medical evidence on causal relationship between a diagnosed condition and the employment incident. The initial treatment from Dr. Crozier did not provide a history or an opinion on causal relationship. The form reports from Dr. Shain also fail to provide a rationalized medical opinion. While Dr. Shain checked a box "yes" on causal relationship in a February 11, 2008 Form CA-20, he did not provide a history of injury or medical rationale to support his opinion on causal relationship. The checking of a box

[5] *See John J. Carlone*, 41 ECAB 354, 357 (1989).

[6] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d) (June 1995).

[7] *Id.*

[8] *Jennifer Atkerson*, 55 ECAB 317, 319 (2004).

"yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.[9]

In an April 9, 2008 report, Dr. Shain stated only that appellant had requested he add an additional diagnosis of trapezius muscle strain. The history provided includes a general statement that appellant was moving something at work, without discussing the specific allegations. Dr. Shain did not provide a rationalized opinion, based on a complete background, establishing causal relationship between a trapezius muscle strain or other diagnosed condition and the December 20, 2007 employment incident. The Board finds that appellant did not meet her burden to establish that she sustained an injury, as alleged.

CONCLUSION

The medical evidence is not sufficient to establish an injury in the performance of duty on December 20, 2007.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated June 20 and March 18, 2008 are affirmed.

Issued: April 17, 2009
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

[9] *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).