

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

_____)
P.S., Appellant)
)
and) **Docket No. 10-488**
) **Issued: August 19, 2010**
)
DEPARTMENT OF VETERANS AFFAIRS,)
RICHARD L. ROUDEBUSH MEDICAL)
CENTER, Indianapolis, IN, Employer)
_____)

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

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 16, 2009 appellant filed a timely appeal of a July 13, 2009 Office of Workers' Compensation Programs' merit decision denying a right shoulder condition. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he developed a right shoulder condition due to factors of his federal employment.

FACTUAL HISTORY

On April 17, 2009 appellant, then a 49-year-old housekeeping aid, filed an occupational disease claim alleging that he developed a strain in his right shoulder due to his federal job duties. Appellant first became aware of his condition on April 20, 2007.

Appellant submitted an April 24, 2009 note from Dr. Dale Snead, a Board-certified orthopedic surgeon, who described appellant's current symptoms of right shoulder pain. He

noted that appellant had previously undergone left shoulder surgeries. Dr. Snead examined x-rays and found moderate degenerative changes in the right shoulder joint. He diagnosed right rotator cuff tendinitis and impingement. Dr. Snead stated that appellant was interested in surgical options.

In a letter dated May 12, 2009, the Office requested additional factual and medical evidence in support of appellant's claim and allowed 30 days for a response. On June 8, 2009 the Office granted appellant an additional 30 days to submit medical evidence. Appellant responded on July 8, 2009 and attributed his right shoulder condition to "pulling dirty linen to wash." He stated that Dr. Snead told him at the time of his March 2, 2006 left shoulder surgery that he would need right shoulder surgery. Appellant attributed his condition to his prior injury "Because my right shoulder was taking the blunt away from the left shoulder." He did not have any additional medical evidence to submit.

By decision dated July 13, 2009, the Office denied appellant's claim on the grounds that he failed to submit sufficient medical evidence to establish a causal relationship between his employment duties and right shoulder condition.

LEGAL PRECEDENT

The Office regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."¹ 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 evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.²

ANALYSIS

Appellant alleged that he developed a right shoulder condition due to his employment activities of pulling dirty linen to wash. He also attributed it to his prior left shoulder condition. In support of his claim, appellant submitted an April 24, 2009 note from Dr. Snead, a Board-certified orthopedic surgeon, who diagnosed right rotator cuff tendinitis and impingement. Dr. Snead did not address causal relation or appellant's work as a housekeeping aid. He did not describe appellant's normal employment activities, did not list pulling dirty linen to wash as

¹ 20 C.F.R. § 10.5(q).

² *Lourdes Harris*, 45 ECAB 545, 547 (1994).

contributing to appellant's right shoulder condition or attribute appellant's right shoulder condition in any way to his federal employment. Dr. Snead's April 24, 2009 treatment note is the only medical evidence of record.

Dr. Snead did not mention any of appellant's employment activities including the implicated activity of pulling dirty linen. He did not describe the physical movements required to pull dirty linen. Dr. Snead did not offer any reason how appellant's right shoulder condition would be due to employment activities. He did not offer an opinion that pulling dirty linen to wash or any other employment activity caused or contributed to appellant's right shoulder condition. As there is no medical evidence in this record discussing appellant's employment activities and concluding that these employment activities caused or contributed to appellant's right shoulder condition, appellant failed to meet his burden of proof.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish his right shoulder condition is due to his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the July 13, 2009 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 19, 2010
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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