

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

J.W., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Des Moines, IA, Employer**

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**Docket No. 10-913
Issued: December 2, 2010**

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 February 1, 2010 appellant, through her representative, filed a timely appeal of August 18 and December 3, 2009 merit decisions of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant met her burden of proof to establish that her right elbow tendinitis, neck or right shoulder conditions are causally related to factors of her federal employment.

FACTUAL HISTORY

On February 5, 2009 appellant, then a 40-year-old mail clerk, filed a compensation claim for a traumatic injury that occurred on February 4, 2009. She was walking down the stairs when she suddenly fell and landed on her right elbow and side.¹

Appellant submitted medical treatment notes from Dr. Daniel Yoo, an orthopedic surgeon. In a February 6, 2009 report, Dr. Yoo noted that appellant had recently injured her right elbow due to a fall and diagnosed right elbow flexor pronator tendinitis.² He noted that she continued to have right shoulder pain and numbness with tingling in her fingers and prescribed physical therapy. In a March 13, 2009 report, Dr. Yoo stated that appellant's right elbow was still painful but examination revealed full extension and flexion on range of motion. In an April 27, 2009 report, he noted that she continued to complain of pain in her right elbow but his examination showed good overall alignment and range of motion. Dr. Yoo recommended obtaining a magnetic resonance imaging (MRI) scan.

Appellant also submitted medical reports from Dr. Scott B. Neff, a Board-certified orthopedic surgeon. In a March 2, 2009 medical report, Dr. Neff provided a diagnosis of impingement syndrome and scapulothoracic myofascial syndrome in the right shoulder which he attributed to repetitive use of the right shoulder through overhead lifting and throwing of heavy bags. In an April 27, 2009 medical report, he stated that appellant's right shoulder continued to bother her and that an MRI scan revealed a cyst with no obvious labral tear. Neither report provided a history of the February 4, 2009 incident at work.

In a May 28, 2009 medical report, Dr. M.S. Iqbal, a Board-certified anesthesiologist, noted appellant's complaint regarding pain in her right elbow and diagnosed myofascial pain syndrome of the right scapular muscle, rhomboids and levator scapulae.

Appellant also submitted emergency room discharge papers from Mercy Medical Center dated February 5, 2009, a series of work status reports dated January 9 to July 6, 2009 which restricted the work she was capable of performing and physical therapy notes from February 12 to July 6, 2009.

In a July 16, 2009 letter, the Office advised appellant that she had submitted insufficient evidence to support her claim for compensation and requested additional medical evidence. Appellant was asked to provide a physician's opinion regarding whether the February 4, 2009 work incident caused her medical conditions. She was also requested to submit a medical report from the physician who examined her after the February 4, 2009 work incident describing her history of medical conditions, current symptoms, objective signs from a physical examination and providing a diagnosis.

¹ The record indicates that appellant has a previous occupational injury claim that was accepted for carpal tunnel syndrome and shoulder impingement (File No. xxxxxx671).

² Dr. Yoo noted that x-rays were obtained that were negative for fracture, dislocation or subluxation.

In response, appellant submitted various records signed by Dr. Yoo, including a July 6, 2009 therapy order, an August 6, 2009 work restriction order, and an August 6, 2009 letter addressed to the Office. She also submitted physical therapy notes dated July 23 to August 6, 2009.

In an August 18, 2009 decision, the Office denied appellant's claim for compensation due to traumatic injury. It accepted that on February 4, 2009 she fell and landed on her right elbow and side; but the medical evidence was not sufficient to establish that her medical conditions resulted from this incident.

On October 19, 2009 appellant filed a request for reconsideration of the August 18, 2009 decision. She explained that on February 4, 2009 she fell and landed on her right side, resulting in an injury to her right elbow and aggravation of her right shoulder and neck conditions. Appellant referred to a previous shoulder injury approved for compensation, which she claimed was aggravated by the fall.³

In a November 16, 2009 report, Dr. Todd C. Troll, a Board-certified specialist in physical medicine and rehabilitation, diagnosed right shoulder pain.

By decision dated December 3, 2009, the Office denied modification of the August 18, 2009 decision. It found that the medical evidence failed to provide a well-reasoned physician's opinion as to how appellant's diagnosed medical conditions resulted from the February 4, 2009 incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act⁴ has the burden of proof to establish the essential elements of her claim by the weight of the evidence⁵ including that she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.⁶ The mere fact that work activities may produce symptoms revelatory of an underlying condition does not raise an inference of an employment relation. The employee must submit rationalized medical opinion evidence showing causal relationship based upon a specific and accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition⁷

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical

³ Appellant also attributed her elbow tendinitis as an occupational disease or illness due to the type of work that she repeatedly performed.

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁶ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ *G.T., id.*; *Nancy G. O'Meara*, 12 ECAB 67, 71 (1960); *Patricia Bolleter*, 40 ECAB 373 (1988).

opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁸

ANALYSIS

The Office accepted that on February 4, 2009 appellant fell down stairs, landing on her right side. The Board finds that she failed to meet her burden of proof to establish that her elbow tendinitis neck or right shoulder conditions were caused by the incident at work.

Appellant submitted medical chart notes from Dr. Yoo dated February 6, March 13 and April 27, 2009. Dr. Yoo provided findings on examination of appellant's diagnosed right elbow flexor pronator tendinitis. He noted that she recently slipped and fell landing on her outstretched hand but did not list the date of injury. Dr. Yoo did not provide any opinion regarding whether this caused or aggravated appellant's diagnosed conditions. To establish causal relationship for a claim, appellant must provide a physician's report which states whether the employment injury caused or aggravated her diagnosed conditions.⁹ Dr. Yoo's medical notes fail to provide a medical opinion addressing whether the February 4, 2009 incident caused or contributed to appellant's medical conditions and are insufficient to satisfy her burden of proof.

Appellant also submitted medical reports from Dr. Neff dated March 2 and April 27, 2009. Dr. Neff diagnosed impingement syndrome in her right shoulder. He did not reference the February 4, 2009 incident, but instead attributed appellant's right shoulder condition to "repetitive overhead lifting, repetitive overhead use of the arm, such as while casing mail." Dr. Neff, however, failed to provide medical rationale explaining how the traumatic incident accepted in this case caused or aggravated her condition. The Board has held that medical reports not containing rationale on causal relation are of diminished probative value and are generally insufficient to meet an employee's burden of proof.¹⁰ Dr. Neff's reports are not sufficient to establish appellant's claim.

Dr. Troll's November 16, 2009 medical report diagnosed appellant with right shoulder pain but did not offer an opinion regarding causal relationship to the February 4, 2009 work incident. For this reason, his report fails to support her claim

The physical therapy notes submitted by appellant from February 18 to July 6, 2009 are of no probative value. Section 8101(2) of the Act provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. As physical and

⁸ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ *Calvin E. King*, 51 ECAB 394 (2000); *D.D.*, 57 ECAB 734, 739-40 (2006).

¹⁰ *Elizabeth H. Kramm*, 57 ECAB 117, 124 (2005); *Jimmie H. Duckett*, 52 ECAB 332, 336 (2001); *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

occupational therapists are not physicians as defined by the Act, their opinions regarding diagnosis and causal relationship are of no probative medical value.¹¹

Appellant's October 19, 2009 request for reconsideration, asserted that her elbow tendinitis and aggravation of a neck and right shoulder injury resulted from her fall on February 4, 2009. The Board, however, 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.¹² 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 is sufficient to establish causal relationship.¹³ Causal relationship can only be established by reasoned medical opinion evidence, which appellant has not provided. Therefore, appellant's opinion that her condition was caused by the February 4, 2009 fall is not determinative.

Appellant failed to satisfy her burden of proof to provide rationalized medical evidence establishing a causal relationship between her right elbow condition and her fall on February 5, 2009. The Office properly denied her claim.

CONCLUSION

The Board finds that appellant failed to meet her burden of proof establishing that her elbow tendinitis and aggravation of a neck and right shoulder injury are causally related to her February 4, 2009 work incident.

¹¹ See *Roy L. Humphrey*, 57 ECAB 238 (2005).

¹² *Id.* at 242.

¹³ *Id.*; see also *Joe T. Williams*, 44 ECAB 518, 521 (1993).

ORDER

IT IS HEREBY ORDERED THAT the December 3 and August 18, 2009 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 2, 2010
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