United States Department of Labor
Employees' Compensation Appeals Board

R.A., Appellant	)	
and	)	**Docket No. 08-1371**
	)	**Issued: November 13, 2008**
U.S. POSTAL SERVICE, MOUNT VERNON POST OFFICE, Mount Vernon, WA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On April 8, 2008 appellant filed a timely appeal from a March 28, 2008 merit decision of the Office of Workers' Compensation Programs, denying her claim for fact of injury. 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 has established that she sustained an injury in the performance of duty.

FACTUAL HISTORY

On February 2, 2008 appellant, then a 51-year-old distribution clerk, filed an occupational disease claim alleging that around November 1, 2007 she noticed pain in both her thumbs. She reported that she sorts mail and uses her thumbs to place mail in its correct slot. Appellant did not miss work and continued her regularly assigned tasks with the use of a thumb brace.

By letter dated February 25, 2008, the Office advised appellant that the evidence submitted was not sufficient to establish her claim on the grounds that no diagnosis had been provided by a physician. In response to this letter, appellant submitted several medical reports and progress notes from Dr. Paul C. Creelman, Board-certified in family medicine.

During her initial consultation with Dr. Creelman, on January 17, 2008, appellant described her condition as tenderness in both thumbs "associated with marked increased repetitive motion at the [employing establishment]" during the months of November and December. Dr. Creelman diagnosed bilateral thumb flexor tendinitis. He also noted tenderness in both thumb tendons and anterior popping of the left thumb, recommending bilateral thumb splints and immobilization of the thumb for two to four weeks.

On January 28, 2008 appellant reported improvement of her thumb pain. Dr. Creelman's progress notes showed persisting tenderness in appellant's thumbs and recommended continued immobilization or a gentle range of motion. In progress notes dated February 11, 2008, he further documented moderate stiffness in both thumbs but no flexor tenderness. Dr. Creelman recommended that appellant continue using splints at work and increase her range of motion.

In a duty status report and progress notes dated March 10, 2008, Dr. Creelman noted that appellant had active trigger limitation and an inability to actively flex both her thumbs. He further referred appellant to Dr. Jonathan Shafer to discuss a steroid injection.

Additionally, in response to the Office's request for further information, appellant submitted a letter and medical report dated February 13, 1985 from Dr. Jeffrey Rindal stating that appellant "stays in good physical condition" and could "medically perform" all required duties as a postal clerk. Appellant also submitted a memorandum dated February 21, 2008 from the employing establishment stating her primary employment duties as "casing, sorting and walling flats and letters" and that she performed these duties for approximately six to eight hours a day.

In a decision dated March 28, 2008, the Office denied appellant's claim for an occupational disease, finding that, while appellant filed a timely claim and established that she was an injured federal employee, she did not demonstrate that her condition was caused by employment-related factors.

LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence,[2] including that she is an "employee" within the meaning of

[1] 5 U.S.C. §§ 8101-8193.

[2] *J.P.*, 59 ECAB ___ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

the Act[3] and that she filed her claim within the applicable time limitation.[4] The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.[5]

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.[6]

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 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.[7]

ANALYSIS

The Office accepted that appellant was a federal employee, that she timely filed her claim for compensation benefits, and that she uses her thumbs to sort mail as alleged. The issue, therefore, is whether appellant submitted sufficient medical evidence to establish that her claimed occupational disease, tendinitis, was caused by her employment as a distribution clerk.

The Board finds the submitted evidence insufficient to establish that appellant's injury was caused by her employment. Appellant submitted several statements claiming that her injury was caused by repetitive sorting tasks during employment. However, these statements are insufficient to establish causation. The fact that appellant believes her condition was caused by employment is not sufficient to meet the causation burden of proof.[8] Meeting this burden of

[3] *See M.H.*, 59 ECAB ___ (Docket No. 08-120, issued April 17, 2008); *Emiliana de Guzman (Mother of Elpedio Mercado)*, 4 ECAB 357, 359 (1951); *see* 5 U.S.C. § 8101(1).

[4] *R.C.*, 59 ECAB ___ (Docket No. 07-1731, issued April 7, 2008); *Kathryn A. O'Donnell*, 7 ECAB 227, 231 (1954); *see* 5 U.S.C. § 8122.

[5] *G.T.*, 59 ECAB ___ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[6] *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

[7] *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[8] *See Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

proof requires a physician's medical rationale explaining the nature of the relationship between the diagnosed condition and the factors of employment.[9]

Appellant further submitted a preemployment report from Dr. Rindal, who concluded that appellant was in good health and able to perform her employment duties. This report does not constitute sufficient medical evidence, as it merely concerns appellant's fitness for duty. Specifically, it predates both appellant's employment and the diagnosed injury and therefore does not address the applicability of appellant's current employment factors to her injury.

Finally, appellant submitted several medical reports from Dr. Creelman, who diagnosed appellant's condition as bilateral thumb flexor tendinitis in an initial report dated January 17, 2008. Dr. Creelman noted that the condition was "associated with marked increased repetitive motion at the [employing establishment]." However, he did not offer any medical rationale to explain the employment relationship to appellant's injury. Thus, this report is of little probative value. Moreover, because Dr. Creelman neither addressed the issue of causation in any of his other medical reports, progress notes, nor duty status reports, they too are of little probative value.[10]

CONCLUSION

The Board finds that appellant has not established that she sustained an injury in the performance of duty.

[9] *See Victor J. Woodhams*, *supra* note 7.

[10] *See Robert Broome*, 55 ECAB 339 (2004); *Linda I. Sprague*, 48 ECAB 386 (1997).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 28, 2008 is affirmed.[11]

Issued: November 13, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

[11] The Board notes following the issue of the Office's March 28, 2008 decision appellant submitted additional evidence. Pursuant to 20 C.F.R. § 501.2(c), the Board is precluded from reviewing evidence for the first time on appeal. However, appellant may resubmit evidence to the Office with a formal, written request for reconsideration under 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606.