U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PHOBE G. HARRINGTON and U.S. POSTAL SERVICE,
POST OFFICE, St. Bonifacius, MN

Docket No. 99-2403; Submitted on the Record;
Issued November 29, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
VALERIE D. EVANS-HARRELL

The issue is whether appellant met her burden of proof to establish that she sustained an injury in the performance of duty on December 12, 1996, causally related to her federal employment.

On December 12, 1996 appellant, then a 47-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date she jammed her wrists and injured her right elbow, left shoulder, left knee and left ankle when she slipped and fell on a patch of ice. Appellant stopped work on December 13 and returned to work on December 17, 1996. The record shows that she accepted a light-duty letter carrier assignment on January 14 and a light-duty office assignment on January 28, 1997. The record also shows that appellant accepted the employing establishment's offer to resume her regular duties with restrictions, on March 17, 1999.

To support her claim, appellant submitted progress notes dated January 27 to March 12, 1997 from D. Zamjahn, a clinical physician's assistant. She also submitted Mr. Zamjahn's reports dated February 28 to April 1, 1997 noting appellant's activity, restrictions and treatment.

In a letter dated May 5, 1997, the Office of Workers' Compensation Programs informed appellant of the type of evidence needed to support her claim.

In response, appellant submitted additional evidence from Mr. Zamjahn and notes from the Westside Natural Health clinic.

By decision dated July 9, 1997, the Office denied appellant's claim on the grounds that the evidence of record failed to establish fact of injury. The Office found that the December 12, 1996 employment incident occurred at the time, place and in the manner alleged, but that the evidence did not show that appellant sustained an injury resulting from that incident.

By letter dated July 6, 1998, appellant requested reconsideration of the Office's July 9, 1997 decision. In support of her request, she submitted an attending physician's report (Form

CA-20) from Dr. Roberta Midwinter, a Board-certified family practitioner, dated October 7, 1997. In her report, Dr. Midwinter diagnosed acute right wrist tendinitis and right elbow epicondylitis and checked the "yes" box indicating that the conditions were employment related. She further indicated that she performed no x-rays or laboratory tests. Dr. Midwinter stated that the history of injury provided by appellant was "repetitive movement heavy lifting x years." Dr. Midwinter also noted that appellant was fully recovered.

By merit decision dated July 27, 1998, the Office affirmed its prior decision on the grounds that the evidence submitted to support appellant's reconsideration request did not show that the December 12, 1996 employment incident resulted in an injury.

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty on December 12, 1996, causally related to her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 is causally related to the employment injury.[2] Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.[3]

To determine whether an employee has satisfied her burden of proof, the Office first considers whether the employment incident occurred at the time, place and in the manner alleged.[4] Second, the Office must determine whether there is a causal relationship between the employment incident and the disability and/or condition for which compensation is claimed.[5] An employee may satisfy the burden of proof establishing that the employment incident occurred as alleged, but fail to show that her disability and/or condition is related to that incident.

The causal relationship between the incident and the alleged disability and/or condition is generally established only by medical evidence.[6] The employee must submit evidence containing a rationalized medical opinion based on a complete factual and medical background in support of the causal relationship.[7] Such evidence includes a physician's rationalized medical

[1] 5 U.S.C. §§ 8101-8193.

[2] *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[3] *See Ronald K. White*, 37 ECAB 176, 178 (1985).

[4] *Shirley A. Temple*, 48 ECAB 404, 407 (1997); *see Elaine Pendelton*, *supra* note 2 at 1145.

[5] *See Elaine Pendelton*, *supra* note 2 at 1147.

[6] *David M. Ibarra*, 48 ECAB 218, 219 (1996).

[7] *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

opinion on the issue of whether there is a causal relationship between the employee's injury and the employment incident.[8] The physician's opinion must be based on a complete factual and medical background of the claimant, must be reasonably certain and must rationally explain the relationship between the diagnosed condition and the alleged employment incident.[9]

As the Office accepted that the December 12, 1996 employment incident occurred at the time, place and in the manner alleged by its decision dated July 7, 1997, the remaining issue is whether the alleged injury was caused by the accepted employment incident.

In this case, the medical evidence of record does not show that appellant sustained an injury causally related to her December 12, 1996 employment injury. Dr. Midwinter's report did not address the issue of whether appellant's right wrist tendinitis and right elbow epichondylitis are related to the December 12, 1996 employment incident. Dr. Midwinter's report indicated by check mark that appellant's condition was employment related, but she merely noted that the history of injury was "repetitive movement and heavy lifting x years." A physician's form report, which checks "yes" with regard to whether a condition is employment related without further detail and explanation is of diminished probative value.[10]

Mr. Zamjahn's notes and reports have no probative value as a physician's assistant is not a "physician" under section 8101(2) of the Act and thus cannot render a medical opinion.[11]

As the medical evidence of record lacked rationalized medical opinion relating appellant's right elbow and wrist conditions to the December 12, 1996 employment incident, appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty causally related to her federal employment.

[8] *Id.*

[9] *See Shirley A. Temple, supra* note 4 at 407.

[10] *Lester Covington*, 47 ECAB 539 (1996).

[11] *Robert J. Krysten*, 44 ECAB 227, 229 (1992).

The decision of the Office of Workers' Compensation Programs dated July 27, 1998 is hereby affirmed.

Dated, Washington, DC
November 29, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Valerie D. Evans-Harrell
Alternate Member