U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of O'DEAL FLORENCE JOHNSON and U.S. POSTAL SERVICE GENERAL MAIL CENTER, Los Angeles, CA

Docket No. 01-1020 Submitted on the Record;
Issued December 11, 2001

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish that she sustained an injury in the performance of duty.

On July 7, 2000 appellant, then a 54-year-old manual distribution clerk, filed a notice of occupational disease (Form CA-2), alleging that she developed carpal tunnel syndrome in the course of performing her employment-related duties. Appellant stopped work on May 26, 2000.

On July 20, 2000 the Office of Workers' Compensation Programs advised appellant of the additional factual and medical evidence needed to establish her claim and requested that she submit such. Appellant was advised that submitting a rationalized statement from her physician addressing any causal relationship between her claimed injury and factors of her federal employment was crucial. Appellant was allotted 30 days to submit the requested evidence.

In a June 14, 2000 disability certificate, Dr. Marvin White, Jr., an internist, stated that appellant was under his care and could return to work on July 18, 2000.

In a July 11, 2000 disability certificate, Dr. Jason Boutros, a Board-certified internist, stated that appellant was seen by him on that same date and that appellant could return to work on August 11, 2000 with no lifting over 10 pounds.

In a July 21, 2000 statement, the employing establishment controverted the claim.

In an August 22, 2000 decision, the Office denied appellant's claim for compensation, as causal relationship was not established.

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act 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 filed within the applicable time limitation 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 are causally related to the employment injury."[1] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.[2]

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.[3] The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[4] Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based upon a complete factual and medical background of the claimant,[5] must be one of reasonable medical certainty[6] 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.

In the present case, the Office found that the medical evidence was insufficient to establish an injury resulting from the event.

The medical documentation submitted from appellant was comprised of two disability certificates from Drs. Boutros and White. The certificates did not contain any diagnosis discussion or opinion. To be of probative value to an employee's claim, the physician must provide rationale for the opinion reached. Where no such rationale is present, the medical

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

[2] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

[3] *See Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[4] The Board has held that, in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

[5] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[6] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

opinion is of diminished probative value.[7] Appellant has not submitted any rationalized medical evidence to establish that she sustained a condition causally related to factors of her employment. As she has not submitted the requisite medical evidence needed to establish her claim, she has failed to meet her burden of proof.[8]

For the above-noted reasons, appellant has not established that she sustained an injury in the performance of duty.[9]

The decision of the Office of Workers' Compensation Programs dated August 22, 2000 is affirmed.

Dated, Washington, DC
December 11, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

[7] *Lucrecia M. Nielsen*, 42 ECAB 83 (1991).

[8] In her appeal, appellant supplied additional medical reports; however, the Board cannot consider new evidence on appeal. Appellant can submit the new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2) (1999); *see* 20 C.F.R. § 501.2(c).

[9] Appellant filed her appeal with the Board on January 22, 2001 and the Office received it on February 6, 2001. It is well established that the Board and the Office may not exercise concurrent jurisdiction over the same issue in the case and, therefore, any decision by the Office on appellant's request for reconsideration would be null and void. *Douglas E. Billings*, 41 ECAB 880 (1990).