

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DENETTA G. AARON and U.S. POSTAL SERVICE,
POST OFFICE, Indianapolis, IN

*Docket No. 02-2244; Submitted on the Record;
Issued February 21, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained an injury in the performance of duty.

On February 25, 2002 appellant, a 39-year-old letter carrier, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that she sustained a possible rotator cuff tear as a result of her federal employment. Appellant identified January 22, 2002 as the date she first became aware of her employment-related condition. Appellant attributed her condition to constant repetitive motion, casing and fingering mail. She initially thought the pain in her shoulder was due to carpal tunnel syndrome and that it would go away. However, on February 24, 2002 appellant reportedly could not move her arm and, therefore, she sought medical treatment the following day. Her physician reportedly thought appellant had sustained a rotator cuff injury. Appellant did not initially submit any medical evidence with her February 25, 2002 Form CA-2.

On March 27, 2002 the Office of Workers' Compensation Programs requested that appellant provide medical evidence and additional factual information. In response, appellant submitted an April 11, 2002 duty status report and office treatment notes from Dr. Gregory T. Hardin, a Board-certified orthopedic surgeon, who diagnosed right shoulder partial rotator cuff tear and cervical disc disease at C-5.

The Office denied appellant's claim by decision dated May 1, 2002. The Office found that appellant failed to establish that her claimed condition was causally related to her employment.

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

In order to establish that an injury was sustained in the performance of duty, 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 appellant 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.¹

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that the condition was caused, precipitated or aggravated by his employment is sufficient to establish a causal relationship.² A physician's opinion on the issue of whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background.³ Additionally, to be considered rationalized, the physician must express his or her opinion in terms of a reasonable degree of medical certainty and must support the opinion with medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁴

In a report dated April 11, 2002, Dr. Hardin noted that appellant was a right-hand dominant female letter carrier who injured her right shoulder on approximately February 25, 2002. Appellant reportedly stated that her pain actually increased over time at work until her symptoms became so bad that she saw her family physician. Dr. Hardin also noted a history of significant scapular pain on the right side as well as some left-sided symptomatology and pain in the past. On physical examination he noted that 175 degrees of elevation in the right shoulder, 70 degrees of external rotation and internal rotation to T-8. He also stated that appellant's cuff strength was 4-5 on a scale of 5. Additionally, Dr. Hardin noted positive anterior cuff tenderness, 2+ acromioclavicular joint tenderness and positive impingement sign. Appellant's neck showed pain with extension as well as with lateral extension and these maneuvers also revealed pulling into her shoulders and scapular areas. Magnetic resonance imaging scans of the neck and shoulder revealed cervical disc disease at C-5, rotator cuff tendinitis, questionable partial rotator cuff tear and Type II acromion. As previously noted, Dr. Hardin diagnosed right shoulder partial rotator cuff tear with acromioclavicular inflammation and C-5 cervical disc disease with anastomosis primarily on the right side. He further advised that appellant was a candidate for restricted work-light duties including no overhead work and no lifting over five pounds.

Although Dr. Hardin reported a history of right shoulder injury "on approximately February 25, 2002" and increased pain over time at work, he did not specifically attribute appellant's right shoulder and cervical conditions to her federal employment. Moreover, Dr. Hardin did not describe any of appellant's employment duties other than to note that she was a letter carrier. The mere fact that appellant reportedly experienced an increase of pain over time at work does not, of itself, establish that her pain or diagnosed conditions are attributable to her

¹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

² *Robert G. Morris*, 48 ECAB 238-39 (1996).

³ *Victor J. Woodhams*, *supra* note 1.

⁴ *Id.*

employment. As Dr. Hardin did not identify any particular employment factors or specifically implicate appellant's employment as a contributing factor of her diagnosed conditions, his April 11, 2002 office notes are insufficient to establish a causal relationship between appellant's employment and her claimed conditions. Consequently, the medical evidence of record fails to establish a causal relationship between the diagnosed conditions and appellant's employment. In the absence of rationalized medical opinion evidence establishing a causal relationship between appellant's claimed conditions and her employment, appellant has failed to demonstrate that she sustained an injury in the performance of duty.⁵

The May 1, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.⁶

Dated, Washington, DC
February 21, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

⁵ *Id.*

⁶ The record includes evidence that was received by the Office subsequent to the issuance of its May 1, 2002 decision. Inasmuch as the Board's review is limited to the evidence of record that was before the Office at the time of its final decision, the Board cannot consider appellant's newly submitted evidence. 20 C.F.R. § 501.2(c).