

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TINA S. WOODS-MILLER and U.S. POSTAL SERVICE,
POST OFFICE, Peoria, IL

*Docket No. 03-1351; Submitted on the Record;
Issued July 15, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant established that she developed thoracic outlet syndrome causally related to factors of her federal employment.

On October 29, 2002 appellant, then a 30-year-old data conversion operator, filed a claim for occupational disease alleging that she developed thoracic outlet syndrome in the performance of duty. Appellant did not submit any narrative statements or medical evidence in support of her claim. On the reverse side of the claim form, the employing establishment noted that appellant's current claim should probably be doubled with a prior claim, number 10-0492492, as both claims alleged employment-related neck, shoulder and arm conditions.

By letter dated November 13, 2002, the Office of Workers' Compensation Programs informed appellant of the type of evidence needed to support her claim. The Office asked appellant to submit a narrative statement setting forth the specific employment factors alleged to have caused her condition, as well as a comprehensive medical report from a physician. The Office left the record open for 30 days for the submission of such evidence.

In a separate letter also dated November 13, 2002, the Office asked the employing establishment to provide a statement describing appellant's duties and work environment.

In a response dated November 18, 2002, the employing establishment controverted appellant's claim for employment-related thoracic outlet syndrome, on the grounds that thoracic outlet syndrome is not a commonly accepted condition for workers' compensation benefits. The employing establishment stated that appellant's duties included intermittent walking to her workstation, and continuous sitting and keyboarding. The employing establishment further stated that rest breaks were provided every hour, and that appellant's workstation was certified and ergonomically adjustable.

In addition, the employing establishment submitted a report dated November 22, 2002 from Dr. Harold Pye, an employing establishment physician, who noted that he had reviewed the

medical files provided by the employing establishment regarding appellant's separate claim for bilateral carpal tunnel and cubital tunnel syndrome. Dr. Pye noted that he did not find any medical evidence that appellant had undergone a cervical evaluation before she underwent her initial surgical procedures. He stated that this was important because appellant's records now indicated that the working diagnosis was thoracic outlet syndrome, a very uncommon problem caused by a variety of anatomic problems. Dr. Pye further noted that one of the symptoms of thoracic outlet syndrome, specifically numbness and tingling in the small and ring fingers of the involved extremity, mimics symptoms of ulnar nerve disease. He stated that he saw no evidence that a comprehensive evaluation was performed to eliminate conditions that might mimic carpal or cubital disease. Dr. Pye concluded that it was quite possible that thoracic outlet syndrome could be the reason why appellant remained symptomatic, especially if this condition was missed on assessment for cubital and carpal tunnel. His report contains a notation from the employing establishment asking the Office to consider Dr. Pye's report in determining whether appellant's claim for thoracic outlet syndrome should be made part of her prior claim, number 10-0492492.

In a decision dated January 6, 2003, the Office denied appellant's claim finding that she had not established that her medical condition occurred at the time, place and in the manner alleged, because she did not provide the requested statement as to what work factors she felt caused her current condition.

The Board finds that appellant has not established that she developed thoracic outlet syndrome causally related to factors of her federal employment.

An employee seeking benefits under the Act¹ 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 are causally related to the employment injury. These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.²

In accordance with the Federal (FECA) Procedure Manual, in order to determine whether an employee actually sustained an injury in the performance of his duty, the Office begins with the analysis of whether "fact of injury" has been established. Generally, "fact of injury" consists of two components which must be considered in conjunction with each other. The first component to be established is that the employee actually experienced the employment incident or exposure which is alleged to have occurred.³ In order to meet his burden of proof to establish the fact that he sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that he actually experienced the employment injury or exposure at the time, place and in the manner alleged.

¹ 5 U.S.C. §§ 8101-8193.

² *Charles E. Evans*, 48 ECAB 692 (1997).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995).

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁴ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.⁵ Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief of a claimant that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁶

In this case, appellant did not submit any factual information to establish that she was injured in the course of her federal employment. Appellant alleged that she had developed thoracic outlet syndrome, but did not explain how this occurred. The employing establishment denied that appellant's alleged thoracic outlet syndrome was due to her employment. By letter dated November 13, 2002, the Office requested that appellant submit both factual and medical evidence to establish that her employment duties resulted in an injury; however, appellant did not submit any factual evidence or provide a statement of work events which she felt contributed to or aggravated her condition. Because the record is devoid of any factual evidence to establish that appellant's federal employment contributed to or aggravated her condition, the first prong of the fact-of-injury test has not been established. Appellant has not met her burden of proof. The Board notes that even assuming that appellant had provided a statement of work events which she felt contributed to or aggravated her condition, she did not submit any medical evidence whatsoever in support of her claim. While the record does contain the report of Dr. Pye, who reviewed appellant's records at the request of the employing establishment, Dr. Pye merely commented on the similarity in symptoms of cubital tunnel syndrome and thoracic outlet syndrome, and speculated as to whether thoracic outlet syndrome might be the cause of appellant's complaints, but did not offer a rationalized medical opinion as to whether appellant suffered from the alleged condition or its relationship, if any, to her employment. Therefore, his report is insufficient to establish her claim.⁷ As there is no other medical evidence contained in the record, appellant did not provide the necessary medical evidence to establish that employment factors caused any injuries, and the Office properly denied her claim.

⁴ *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(q), 10.5(ee) ("occupational disease" and "traumatic injury" defined).

⁵ *Lourdes Harris*, 45 ECAB 545 (1994); see *Walter D. Morehead*, 31 ECAB 188 (1979).

⁶ *Charles E. Evans*, *supra* note 2; *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

⁷ While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, neither can such opinion be speculative or equivocal. Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee's burden of proof. *Judith J. Montage*, 48 ECAB 292 (1997).

The January 6, 2003 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 15, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member