

**United States Department of Labor
Employees' Compensation Appeals Board**

R.R., Appellant

and

**DEPARTMENT OF HOMELAND SECURITY,
U.S. CUSTOMS SERVICE, New York, NY,
Employer**

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**Docket No. 06-1975
Issued: January 18, 2007**

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
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On August 23, 2006 appellant filed a timely appeal from the May 17, 2006 merit decision of the Office of Workers' Compensation Programs, which denied her claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of her case.

ISSUE

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

FACTUAL HISTORY

On May 1, 2002 appellant, then a 50-year-old intelligence research specialist, filed a claim for compensation alleging that she sustained an injury in the performance of duty on April 30, 2002: "I was at my work area (cubicle desk) writing a memo[random] when the middle section of my desk flipped over and struck both of my arms, wrist area and legs. When I

tried backing my chair away, I twisted my right side of my neck and strained my back.” Appellant disclosed that she had a back injury in May 2001 and had not recovered when the April 30, 2002 incident occurred.

A supervisor reported that appellant’s statement was consistent with his knowledge of the facts and that appellant had injured herself in the performance of duty. He added that appellant first sought medical care on May 1, 2002 but lost no time from work.

The Office asked for more information. It gave appellant questions to answer and advised that her physician had to explain whether the incident caused or aggravated a diagnosed condition: “This evidence is crucial in consideration of your claim. You may wish to discuss the contents of this item with your physician.”

On March 2, 2005 the Office denied appellant’s claim. Noting that appellant had submitted a claim form and nothing else, the Office found that the evidence failed to establish that the incident occurred at the time, place and in the manner alleged. The Office also found that appellant failed to submit a comprehensive, reasoned medical opinion to establish causal relationship.

Additional evidence followed. The employing establishment authorized medical treatment on May 1, 2002. On the back of that authorization, a physician, whose signature is illegible, related that a cubicle fell on appellant “yesterday at work.” Findings included bruises and muscle swelling, bilateral upper arms and [bilateral?] ankle. With an affirmative mark, the physician opined that the described employment injury caused contusions on both arms and legs. The physician found that appellant was totally disabled on May 1, 2002 but able to resume regular work on May 2, 2002.

On November 1, 2003 Dr. Avraham H. Uncyk, a family practitioner, diagnosed contusion of the right wrist and hand. He circled “yes” to indicate that this injury was related to the work accident on April 30, 2002. X-rays on November 3, 2003 showed a skeletally intact right hand.

Appellant received medical attention after November 2003. On December 16, 2003 Dr. Jonathan Gordon, an orthopedic surgeon, described her history:

“The patient is a 51-year-old who comes in today complaining of right wrist pain. The patient has a longstanding history of pain and swelling in the patient’s right wrist. She had something fall on her at work and has had pain ever since.”

Dr. Gordon diagnosed right wrist pain with extensor pollicis longus tendinitis and placed appellant in a splint. On July 22, 2004 he diagnosed right de Quervain’s disease. Appellant requested reconsideration.

On May 17, 2006 the Office reviewed the merits of appellant’s claim and denied modification of its prior decision. The Office found no medical documentation that appellant sustained an injury as a result of the April 30, 2002 incident.

LEGAL PRECEDENT

The United States shall pay compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.¹ An employee seeking benefits under the Federal Employees' Compensation Act has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.²

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and her subsequent course of action.³ An employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.⁴

Causal relationship is a medical issue⁵ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁶ must be one of reasonable medical certainty⁷ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁸

Not all medical opinions require rationale. In a simple traumatic injury, such as a knife cut that, is reported to and seen by the physician promptly, there is no need to obtain a rationalized explanation of causal relationship. When the relationship is not obvious or when

¹ 5 U.S.C. § 8102(a).

² See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989).

³ *Carmen Dickerson*, 36 ECAB 409 (1985); *Joseph A. Fournier*, 35 ECAB 1175 (1984). See also *George W. Glavis*, 5 ECAB 363 (1953).

⁴ *Caroline Thomas*, 51 ECAB 451 (2000).

⁵ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁷ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁸ See *William E. Enright*, 31 ECAB 426, 430 (1980).

there may have been an intervening nonoccupational cause, it is essential that the physician give his or her medical reasons for relating the condition to the history obtained.⁹

ANALYSIS

Appellant's claim that she sustained an injury in the performance of duty on April 30, 2002 is consistent with the surrounding facts and her subsequent course of action. She promptly filed a claim for compensation. No witness provided a statement, but a supervisor confirmed that appellant's claim was consistent with his knowledge of the facts. The employing establishment authorized medical care and when appellant saw the physician on May 1, 2002, she related a consistent history of injury. As there is no evidence refuting appellant's account of events, the Board finds that she has met her burden to establish that the incident occurred as alleged. The question that remains is whether the middle section of her cubicle desk caused an injury when it flipped over and struck her arms and legs on April 30, 2002.

The physician who examined her on the following day thought so. The physician found bruises and muscle swelling. Noting that, a cubicle had fallen on appellant the previous day at work, the physician opined that the incident caused contusions on both arms and legs.¹⁰ The physician offered no rationale to explain how such an incident, medically speaking, caused bruises and muscle swelling. But this is a simple traumatic injury, reported to and seen by the physician promptly. Given the nature of the injury and the rather obvious relationship, the Board finds that there is no need for appellant to obtain a rationalized medical explanation of the cause of her contusions. Appellant has met her burden of proof to establish that she bruised her legs and upper arms on April 30, 2002 while in the performance of duty.

Although there is no reason to doubt that she tried backing her chair away after being struck, no medical evidence shows that she twisted the right side of her neck or strained her back on April 30, 2002, as alleged. The evidence establishes only a contusion injury to her legs and upper arms.

Appellant submitted later medical evidence to support that the April 30, 2002 incident caused additional injury. She saw Dr. Uncyk, the family practitioner, on November 1, 2003 for a contusion of the right wrist and hand. Dr. Uncyk circled "yes" to indicate that this injury was related to the work accident on April 30, 2002, but he reported no history of the April 30, 2002 injury and so failed to demonstrate a basic understanding of what happened that day. Medical conclusions based on inaccurate or incomplete histories are of little probative value.¹¹

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.6.d (April 1993).

¹⁰ For the purpose of establishing an injury in the performance of duty, it matters little whether the cubicle or part of the cubicle desk struck appellant's arms and legs.

¹¹ *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

Dr. Uncyk also failed to acknowledge that appellant's examination on May 1, 2002 found bruises and muscle swelling on the upper arms, not on the right wrist and hand. He offered no explanation for the different location of the contusion he saw on November 1, 2003 and no explanation why a contusion sustained on April 30, 2002 would persist for a year and a half. As appellant's examination on May 1, 2002 revealed no right wrist or hand contusion and given the apparent failure of the contusion to resolve within a reasonably short period of time, the causal connection between the April 30, 2002 incident at work and the condition Dr. Uncyk found on examination a year and a half later is not obvious. Dr. Uncyk must provide sound medical reasoning for his opinion that the April 30, 2002 incident caused and the findings he made in November 2003. He provided none. Medical conclusions unsupported by rationale are of little probative value and are insufficient to establish the critical element of causal relationship.¹²

On December 16, 2003 Dr. Gordon, the orthopedic surgeon, diagnosed right wrist pain with extensor pollicis longus tendinitis. On July 22, 2004 he diagnosed right de Quervain's disease. He related neither of these conditions to the April 30, 2002 incident. His reports do nothing, therefore, to support a causal connection to appellant's federal employment.

CONCLUSION

The Board finds that appellant has discharged her burden of proof to establish that she sustained a contusion injury to her legs and upper arms on April 30, 2002 while in the performance of duty. The Board further stated that appellant has not met her burden of proof to establish that she also injured her right wrist that day. The evidence fails to establish that the later diagnosis of right wrist contusion, extensor pollicis longus tendinitis or right de Quervain's disease is causally related to the April 30, 2002 incident at work.

¹² *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

ORDER

IT IS HEREBY ORDERED THAT the May 17, 2006 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for the payment of any compensation benefits to which appellant may be entitled as a result of her April 30, 2002 employment injury.

Issued: January 18, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board