

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

J.C., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Stoughton, WI, Employer**

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**Docket No. 06-1762
Issued: May 1, 2007**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 12, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated July 18, 2005 which denied his occupational disease claim. Pursuant to C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.¹

ISSUE

The issue is whether appellant has established that he sustained an injury in the performance of duty.

FACTUAL HISTORY

On April 27, 2005 appellant, then a 57-year-old rural carrier, filed an occupational disease claim alleging that he experienced pain, weakness and loss of strength in his right hand

¹ The record includes evidence received after the Office issued the July 18, 2005 decision. The Board cannot consider new evidence for the first time on appeal. 20 C.F.R. § 501.2(c) (2004).

and fingers caused by repetitive motion while sorting and handling mail and while steering a vehicle. He first realized that the condition was related to his employment on April 1, 2005.

A letter dated April 27, 2005 from appellant to the postmaster was submitted to the Office. Appellant described the pain symptoms in his hands as well as previous fractures in his hands. In a progress report dated May 12, 2005, Dr. Matthew Bliss, a Board-certified orthopedic surgeon, described the follow-up visit for appellant's left thumb surgery.

In a June 16, 2005 letter, the Office requested additional medical information from appellant. Subsequently, a functional capacity evaluation and a summary of functional abilities were submitted.

By decision dated July 18, 2005, the Office denied appellant's claim. It found that the evidence was insufficient to establish that the claimed medical condition was related to the established work events.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of the Act and 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 or specific condition for which compensation is claimed is causally related to the employment injury.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 the factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the 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 factors identified by the claimant.³

ANALYSIS

Appellant alleged that his right hand condition was causally related to factors of his employment. To establish that appellant sustained an injury, medical evidence establishing the existence of a disease or condition must be submitted. No evidence was submitted to support appellant's alleged right hand condition. The only evidence submitted was Dr. Bliss' report which addressed appellant's left hand surgery and function testing results. None of the documents diagnose a condition or disease in appellant's right hand.

² *Anthony P. Silva*, 55 ECAB 179 (2003).

³ *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB ____ (Docket No. 05-715, issued October 6, 2005).

Moreover, none of the medical evidence of record establishes that the alleged factors of employment caused appellant's right hand condition. The Board finds that the medical evidence does not establish that appellant has a diagnosed condition or disease of the right hand causally related to his federal employment.

CONCLUSION

The Board finds that appellant failed to establish that he sustained an occupational disease in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the July 18, 2005 decision the Office of Workers' Compensation Programs is affirmed.

Issued: May 1, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

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