

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

M.H., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Mansfield, OH, Employer**

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**Docket No. 07-1444
Issued: October 12, 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
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 7, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' April 23, 2007 merit decision denying his occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On January 26, 2007 appellant, then a 57-year-old flat sorting machine clerk, filed an occupational disease claim alleging that he sustained injury to his left arm, between his shoulder and thumb, due to engaging in "heavy lifting and pulling equipment." He first became aware of his claimed condition and its relationship to his employment on January 19, 2007. Appellant stopped work on January 19, 2007 and began working in a limited-duty job shortly thereafter.

In a January 26, 2007 report, Dr. Clark Iorio, an attending physician specializing in occupational medicine, stated that appellant reported that on January 19, 2007 he felt pain in his left shoulder after lifting heavy mail tubs. The pain later progressed to his entire left arm and left thumb. Dr. Iorio diagnosed cervical radiculopathy and left thumb sprain. In a January 26, 2007 form report, appellant noted in the first half of the form that he worked on a flat sorting machine which involved lifting mail tubs, pushing equipment and holding mail. In the second half of the form, Dr. Iorio diagnosed cervical radiculopathy and left thumb sprain and checked a "yes" box in response to a question regarding whether appellant had an injury that was "causally related to the industrial incident."

In a letter dated February 8, 2007, the Office requested that appellant submit additional factual and medical evidence in support of his claim.¹

Appellant submitted statements in which he indicated that operating a flat sorting machine required him to lift mail tubs weighing about 30 pounds and to carry the tubs to hand trucks and cages. He indicated that he had to feed the sorting machine by lifting mail off hand trucks and out of cages and that he had to use his right hand to key the addresses of mail that could not be automatically sorted. Appellant stated that he had to place many heavy mail tubs onto a conveyer belt as well as take them off the conveyer belt. He indicated that he was required to grasp the keyed mail with his left hand to place it into a chute and that he used his left thumb to push the mail into the chute. Appellant stated that he had to perform these repetitive duties constantly throughout the day and that the task of keying mail and placing it into the chute took two to three hours per day. He indicated that he first noticed his left shoulder pain after working a full shift on January 19, 2007 but that after working for a few more weeks his pain progressed down his left arm and into his left thumb.

Appellant also submitted a February 8, 2007 report in which Dr. Iorio diagnosed left thumb sprain and resolved cervical radiculopathy and March 8 and 27, 2007 reports in which he diagnosed left thumb sprain. The findings of January 26, 2007 x-rays of appellant's neck revealed cervical spondylosis at C5 and C6 with narrow disc spaces. The findings of February 8, 2008 x-ray testing of his left thumb showed degenerative arthritic changes involving the first carpal-metacarpal joint.

By decision dated April 23, 2007, the Office denied appellant's claim for an occupational disease. The Office accepted that appellant had established the existence of employment factors as alleged, but determined that he did not submit sufficient medical evidence to show that he sustained injury due to these factors.

¹ On March 13, 2007 the Office advised Dr. Iorio that the record contained an unsigned February 16, 2007 report which appeared to be from his office. It asked him to indicate whether the diagnoses contained in the report -- resolved cervical radiculopathy, left thumb sprain and severe degenerative joint disease of the left metacarpal joint - - were related to appellant's employment. It does not appear that Dr. Iorio responded to this request within the 15 days allotted by the Office.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his 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 specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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 on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, 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.⁵

ANALYSIS

Appellant alleged that he sustained left shoulder, arm and thumb injuries due to performing repetitive upper extremity tasks over an extended period while working as a clerk on a flat sorting machine. In an April 23, 2007 decision, the Office denied appellant's claim finding that he had established the existence of employment factors as alleged, but that he did not submit sufficient medical evidence to show that he sustained injury due to these factors.

The Board notes that appellant established the existence of employment factors including lifting mail tubs weighing about 30 pounds, carrying the tubs to hand trucks and cages, feeding the sorting machine by lifting mail off hand trucks and out of cages, placing heavy mail tubs onto

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁵ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

a conveyer belt and taking them off, grasping mail with his left hand to place it into a chute, and using his left thumb to push the mail into the chute. The Board finds, however, that appellant did not submit sufficient medical evidence to show that he sustained injury due to these factors.

In a January 26, 2007 form report, appellant noted in the first half of the form that he worked on a flat sorting machine which involved lifting mail tubs, pushing equipment, and holding mail. In the second half of the form, Dr. Iorio, an attending physician specializing in occupational medicine, diagnosed cervical radiculopathy and left thumb sprain and checked a “yes” box in response to a question regarding whether appellant had an injury that was “causally related to the industrial incident.”

The Board has held, however, that when a physician’s opinion on causal relationship consists only of checking “yes” to a form question, that opinion has little probative value and is insufficient to establish causal relationship.⁶ Appellant’s burden includes the necessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound medical reasoning. Dr. Iorio did not detail appellant’s work duties in any detail and did not describe the medical process through which they could have caused a cervical radiculopathy or left thumb sprain. As Dr. Iorio did no more than check “yes” to a form question, his opinion on causal relationship is of little probative value and is insufficient to discharge appellant’s burden of proof.

The record contains other reports, dated between January and March 2007, in which Dr. Iorio diagnosed left thumb sprain, active cervical radiculopathy or resolved cervical radiculopathy. These reports, however, are of limited probative value on the relevant issue of the present case in that they do not contain an opinion on causal relationship.⁷ For these reasons, appellant has not established that he sustained an employment-related condition and the Office properly denied his claim.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained an occupational disease in the performance of duty.

⁶ *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

⁷ *See Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' April 23, 2007 decision is affirmed.

Issued: October 12, 2007
Washington, DC

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

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

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