

shoulder problems in the performance of duty.¹ He attributed his condition to walking, standing and pushing heavy equipment and containers of mail during his tenure of more than 20 years with the employing establishment. Appellant noted that he first became aware of his condition and related it to his employment during April and May 2006. He stopped work on March 22, 2006. The employing establishment controverted appellant's claim, stating that his duties generally involved selling products and handling money and that any heavy lifting or pushing was done with hydraulic lifts.

In an April 7, 2006 report, Dr. Frederick Douglas Burton, an internist, advised that he had treated appellant for severe degenerative joint disease of the left hip, a deformed left clavicle and a disc herniation at the L2-3 level of appellant's cervical spine. He noted that x-ray testing revealed degenerative changes of the acromioclavicular joint. Dr. Burton concluded, based on appellant's "work schedule and work habits," that his hip and clavicle injuries were related to his employment. In a June 20, 2006 report, he reiterated his opinion that appellant's left clavicle and hip conditions were related to his repetitive pushing and lifting of heavy objects on the job. Dr. Burton stated that x-ray testing revealed severe degeneration of the femur heads, which is a type of degeneration common to individuals who repetitively push heavy objects. He also noted that appellant's left clavicle demonstrated anterior displacement with calcification, which was typically observed in individuals who engaged in repetitive pushing and lifting. Dr. Burton explained that appellant's history did not reflect any nonwork activities that "would create the repetitive nature necessary for these types of injuries." He concluded that appellant's employment directly caused his degenerative joint disease of the left clavicle and hip.

By decision dated June 29, 2006, the Office denied appellant's occupational disease claim on the grounds that the medical evidence was insufficient to demonstrate a causal relationship between the established work-related events and appellant's diagnosed condition.

On February 9, 2007 appellant requested reconsideration of the Office's June 29, 2006 decision.

In support of his reconsideration request, appellant submitted two additional medical reports from Dr. Norman B. Stempler, an osteopath. In a January 15, 2007 report, Dr. Stempler noted that appellant described his job as "moving mail," which required repetitive standing, bending and kneeling, squatting, stooping, pushing, pulling and lifting. He diagnosed bilateral degenerative joint disease of the hips with more pronounced symptoms on the left and bilateral degenerative joint disease of the sternoclavicular joint. Dr. Stempler opined that there was a "direct causal relationship between all of [appellant's] ongoing and continued complaints and the cumulative effect of his activities at the [employing establishment] for the past 21 years." In a January 31, 2007 follow-up report, he again noted that, over 20 years with the employing establishment, appellant performed repetitive physical duties including bending and stooping, kneeling and squatting, lifting, pushing and pulling. He characterized the physical requirements of appellant's employment as both repetitive and excessive. Dr. Stempler concluded that the physical examination findings supported a diagnosis of bilateral degenerative joint disease of the

¹ On May 23, 2006 the Office sent a development letter requesting additional information concerning appellant's claim. It characterized appellant's claim as a low back injury. In statements on May 28 and June 16, 2006, appellant clarified that his claim was for hip and shoulder conditions, not for a back condition.

hips. He opined that appellant “is suffering from the cumulative effect of all of the activities as an employee. In my opinion, there is unquestionably direct causal relationship between all of [appellant’s] continued hip complaints and ... the activities of the workplace for the past 20 [to] 21 years.”

By decision dated May 16, 2007, the Office denied modification of its June 29, 2006 decision on the grounds that the medical evidence submitted was insufficient to establish a causal relationship between appellant’s diagnosed condition and his employment factors.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act² 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 disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

An occupational disease or injury is one caused by specified employment factors occurring over a longer period than a single shift or workday.⁵ The test for determining whether appellant sustained a compensable occupational disease or injury is three-pronged. To establish the factual elements of the claim, he must submit: “(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.”⁶

The medical evidence required to establish causal relationship generally 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.⁷ The opinion of the physician must be based on a complete factual and medical background of the

² 5 U.S.C. §§ 8101-8193.

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

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *D.D.*, 57 ECAB ___ (Docket No. 06-1315, issued September 14, 2006).

⁶ *Michael R. Shaffer*, 55 ECAB 386, 389 (2004); citing *Lourdes Harris*, 45 ECAB 545 (1994); *Victor J. Woodhams*, *supra* note 4.

⁷ *Conard Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

claimant⁸ and must be one of reasonable medical certainty⁹ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰

ANALYSIS

The Board finds that appellant has not met his burden of proof in establishing that he developed an occupational disease in the performance of duty. Appellant established that he performed tasks of a physical and repetitive nature for the employing establishment. However, he has not submitted sufficient rationalized medical evidence to show a causal relationship between his diagnosed degenerative joint disease of the hips and left shoulder condition and his employment factors.

In his April 7, 2006 report, Dr. Burton concluded that appellant's hip and clavicle injuries were causally related to his employment. He attributed appellant's condition to his "work schedule and work habits." However, Dr. Burton did not identify or elaborate upon the employment factors he believed caused appellant's condition or explain precisely how the relevant factors were related to his specific condition. On June 20, 2006 he reiterated that appellant's hip and shoulder conditions were related to his employment and explained that x-ray testing had revealed severe degeneration of the femur heads and anterior displacement with calcification of the left clavicle, which were typically seen in individuals who engage in repetitive pushing. Dr. Brown concluded that appellant's repetitive pushing and lifting on the job caused his conditions. He did not, however, provide support for his conclusions beyond his generalized observations. Although Dr. Brown noted that, the degeneration appellant experienced was of a type typically seen in individuals who engaged in repetitive pushing and lifting, he did not explain how appellant's work activities would have caused or aggravated his particular condition. He merely noted that appellant's degeneration was of a type often seen in individuals who had engaged in repetitive pushing and lifting activities and did not present rationale specifically tailored to appellant's particular situation. Dr. Brown also did not present specific details about appellant's heavy lifting and pushing activities; he did not note the weights appellant was required to lift and push, how long appellant spent on repetitive physical activities each day and what other physical duties, if any, appellant was expected to perform. He also did not give specific physical details of appellant's diagnosed condition. Therefore, the Board finds that Dr. Brown's report is not sufficiently rationalized to establish a causal relationship between appellant's diagnosed conditions and his employment factors.

In his January 15 and 31, 2007 reports, Dr. Stempler attributed appellant's diagnosed condition to the cumulative effects of his physical work over the past 21 years. He noted that appellant's physical work duties included standing, bending and stooping, kneeling, squatting, pushing and pulling and lifting. However, Dr. Stempler did not give a fully rationalized explanation of how these activities caused appellant's particular physical condition. He noted

⁸ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁹ *John W. Montoya*, 54 ECAB 306 (2003).

¹⁰ *Judy C. Rogers*, 54 ECAB 693 (2003).

appellant's diagnosed condition and the physical demands of his job, but did not offer rationale in support of his conclusion that the physical job activities caused the condition. As noted above, a rationalized medical opinion must include a full explanation of the nature of the relationship between appellant's diagnosed condition and the implicated employment factors; Dr. Stempler's reports lack such an explanation. Accordingly, they are insufficient to establish a causal relationship between appellant's diagnosed condition and his employment factors.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the May 16, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 7, 2008
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