United States Department of Labor
Employees' Compensation Appeals Board

N.J., Appellant	)	
and	)	**Docket No. 08-1016**
	)	**Issued: August 26, 2008**
U.S. POSTAL SERVICE, POST OFFICE, Limington, ME, Employer	)	

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 February 12, 2008 appellant filed a timely appeal from an Office of Workers' Compensation Programs' merit decision dated February 8, 2008. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that she sustained a right elbow condition in the performance of duty.

FACTUAL HISTORY

Appellant, a 30-year-old rural carrier, filed a Form CA-2 claim for benefits on December 13, 2007, alleging that as of November 12, 2007 she became aware that she had a tendinitis condition in her right elbow causally related to factors of her employment.

In a report dated December 12, 2007, Dr. Jennifer M. Friedman, a direct patient care physician and a specialist in neurology, stated:

> "[Appellant] is being seen for tendinitis of the right elbow. She will need to be on modified duty with avoidance of repetitive flexion/extension of the right wrist and elbow for two weeks."

By letter dated December 28, 2007, the Office advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. It asked appellant to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition, and an opinion as to whether her claimed condition was causally related to her federal employment. Appellant did not submit any additional medical evidence.

By decision dated February 8, 2008, the Office denied appellant's claim, finding that she failed to submit medical evidence sufficient to establish that she sustained a right elbow condition in the performance of duty.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing that 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.[2] 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.[3]

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 causal relationship is usually rationalized medical 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

[1] 5 U.S.C. §§ 8101-8193.

[2] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[3] *Victor J. Woodhams*, 41 ECAB 345 (1989).

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.[4]

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her claimed right elbow condition and her federal employment. This burden includes providing medical evidence from a physician who concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.[5]

ANALYSIS

In the instant case, appellant has failed to submit any medical opinion containing a rationalized, probative report which relates her claimed right elbow condition to factors of her employment. For this reason, she has not discharged her burden of proof to establish her claim that this condition was sustained in the performance of duty.

Appellant submitted a December 12, 2008 report from Dr. Friedman, who related findings of right elbow pain on examination, diagnosed right elbow tendinitis and advised her to avoid repetitive flexion and extension of the right wrist and elbow for two weeks. Dr. Friedman placed appellant on modified duty for two weeks.

Dr. Friedman's opinion is of limited probative value as it does not contain any medical rationale explaining how or why appellant's claimed right elbow condition was currently affected by or related to factors of employment.[6] The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.[7] Appellant did not submit a medical opinion which sufficiently described her job duties or explained the medical process through which such duties would have been competent to cause the claimed condition. Accordingly, she failed to submit sufficient medical evidence to establish that her claimed right elbow condition was causally related to her employment.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.[8] Causal relationship must be established by

[4] *Id.*

[5] *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

[6] *William C. Thomas*, 45 ECAB 591 (1994).

[7] *See Anna C. Leanza*, 48 ECAB 115 (1996).

[8] *Id.*

rationalized medical opinion evidence and appellant failed to submit such evidence. The Office advised her of the evidence required to establish her claim. However, appellant failed to submit such evidence. Accordingly, the Office properly denied appellant's claim for compensation based on a right elbow condition.

CONCLUSION

The Board finds that appellant has failed to meet her burden of proof in establish that her claimed right elbow condition was sustained in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the February 8, 2008 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 26, 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