

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

V.B., Appellant

and

U.S. POSTAL SERVICE, AIRMAIL FACILITY,
Atlanta, GA, Employer

)
)
)
)
)
)
)
)

**Docket No. 08-123
Issued: June 9, 2008**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 16, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated September 6, 2007 regarding a left shoulder condition. Pursuant to 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 established a left shoulder condition causally related to a May 31, 2003 employment injury.

FACTUAL HISTORY

On June 3, 2003 appellant, then a 33-year-old mail handler, filed a traumatic injury claim alleging that she sustained a back injury on May 31, 2003. She stated that she was attempting to move a wire cage of mail. The Office accepted myofascial strain of the low back and herniated nucleus pulposus L5-S1. Appellant worked intermittently and then stopped working on August 10, 2004, when she underwent back surgery.

The Office developed the record with respect to appellant's continuing disability for work. Appellant was referred to Dr. Thomas Branch, a Board-certified orthopedic surgeon, for an opinion as to appellant's employment-related disability.¹ In a report dated October 31, 2005, Dr. Branch provided a history and results on examination. With respect to the left shoulder, he indicated that appellant was not complaining of pain and he reported a normal examination with full range of motion.

In a report dated January 31, 2007, Dr. Stephen McCollam, an orthopedic surgeon, stated that in May 2003 appellant was jerking a cage and developed left shoulder pain in July 2003. He reported that appellant had significant pain since then and she could not remember any other injury to her left shoulder. Dr. McCollam provided results on examination and diagnosed a left rotator cuff tear, based on a magnetic resonance imaging scan.

By decision dated September 6, 2007, the Office determined that appellant had not established a left shoulder injury causally related to the May 31, 2003 employment injury.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of her claim, including that specific condition for which compensation is claimed is causally related to the employment injury.³ The medical evidence required to establish causal relationship is rationalized medical evidence.⁴

Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between a diagnosed condition and the identified employment factor. The opinion of the physician must be based on a complete factual and medical background, must be 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.⁵

ANALYSIS

In this case, appellant seeks to expand her claim to include a left shoulder condition. The Office has accepted a herniated disc at L5-S1 and a low back myofascial strain as a result of attempting to move a wire cage of mail on May 31, 2003. Appellant has the burden of proof to

¹ Dr. Branch was selected as a referee physician to resolve a conflict under 5 U.S.C. § 8123(a).

² 5 U.S.C. §§ 8101-8193.

³ *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *See John W. Montoya*, 54 ECAB 306, 308 (2003).

⁵ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004).

submit medical evidence of sufficient probative value to establish a left shoulder condition causally related to the May 31, 2003 employment injury. She did not meet her burden of proof in this case. There are no medical reports contemporaneous to the May 31, 2003 injury regarding a left shoulder condition. The initial report discussing a left shoulder injury is Dr. McCollam's January 31, 2007 report which stated that appellant reported left shoulder pain in July 2003, but he did not provide an opinion on causal relationship between a diagnosed rotator cuff tear and the employment injury. In addition, the medical reports of record prior to January 31, 2007 providing examination results for the upper extremities report a normal examination. For example, a July 10, 2003 report from Dr. Shevin Pollydore, an orthopedic surgeon, reported a normal upper extremity examination and Dr. Branch reported a normal left shoulder examination on October 31, 2005.

The Board finds that the medical evidence submitted is insufficient to meet appellant's burden of proof. In the absence of a rationalized medical report, based on a complete and accurate background, on the issue of causal relationship with the May 31, 2003 employment injury, appellant did not establish a left shoulder condition as employment related.

CONCLUSION

The medical evidence does not establish a left shoulder condition causally related to a May 31, 2003 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 6, 2007 is affirmed.

Issued: June 9, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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