

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

M.D., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Detroit, MI, Employer**

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**Docket No. 08-620
Issued: June 24, 2008**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 26, 2007 appellant filed a timely appeal from the May 4, 2007 merit decision of the Office of Workers' Compensation Programs denying his traumatic injury claim. Pursuant to 20 C.F.R. §§ 501.2 and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant sustained a left thumb injury while in the performance of duty on August 10, 2006.

FACTUAL HISTORY

On March 16, 2007 appellant, a 51-year-old general expeditor, filed a traumatic injury claim alleging that he injured his left thumb on August 10, 2006, when he fell while closing equipment. The employing establishment controverted the claim on the grounds that appellant had failed to establish the fact of injury, and that he had provided no medical evidence.

On August 19, 2007 Supervisor Mary Brow stated that she had no knowledge of the alleged August 10, 2006 incident until March 16, 2007, when appellant told her that a gate fell on his hand in the process of closing equipment. The record contains an employing establishment injury display sheet, reflecting that appellant sustained a right shoulder strain on April 9, 2004.

In a letter dated April 2, 2007, the Office informed appellant that the information submitted was insufficient to establish his claim and allowed him 30 days to submit additional information, including a detailed account of the alleged injury and a physician's report, with a diagnosis and a rationalized opinion as to the cause of the diagnosed condition.

By decision dated May 4, 2007, the Office denied appellant's claim. Although it accepted that the work event occurred as alleged, the Office found that he had failed to provide any medical evidence from a physician, with a history of injury, a diagnosis, and a medical opinion explaining the cause of his condition. Therefore, the evidence was insufficient to establish that appellant had sustained an injury under the Act on August 10, 2006.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of proof to establish the essential elements of the 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 or specific condition for which compensation is claimed is causally related to the employment injury.¹ When an employee claims that he sustained a traumatic injury in the performance of duty, he must establish the "fact of injury," namely, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged, and that such event, incident or exposure caused an injury.²

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.³ Causal relationship is a medical issue, and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion 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

¹ *Robert Broome*, 55 ECAB 339 (2004); *see also Elaine Pendleton*, 40 ECAB 1143 (1989).

² *Betty J. Smith*, 54 ECAB 174 (2002); *see also Tracey P. Spillane*, 54 ECAB 608 (2003). The term "injury" as defined by the Act, refers to a disease proximately caused by the employment. 5 U.S.C. § 8101(5). *See* 20 C.F.R. § 10.5(q), (ee).

³ *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

rationale explaining the nature of the relationship between the diagnosed condition and the established incident, or factor of employment.⁴

An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.⁵

ANALYSIS

The Office accepted that appellant was a federal employee, that he timely filed his claim for compensation benefits, and that the workplace incident occurred as alleged. The issue, therefore, is whether he has submitted sufficient medical evidence to establish that the employment incident caused an injury. Appellant submitted no medical evidence in support of his claim prior to the Office's May 4, 2007 decision. Therefore, he failed to establish a *prima facie* claim for compensation.

An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is a causal relationship between his claimed condition and his employment.⁶ To establish causal relationship, he must submit a medical report in which the physician reviews those factors of employment identified by appellant as causing his condition and, taking these factors into consideration, as well as findings upon examination and appellant's medical history, explains how these employment factors caused or aggravated any diagnosed condition; and presents medical rationale in support of his opinion.⁷ Appellant failed to submit such evidence and, therefore, failed to satisfy his burden of proof. The Board finds that the Office properly denied his claim for benefits under the Act.

CONCLUSION

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained a traumatic injury in the performance of duty on August 10, 2006.

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

⁵ *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

⁶ *Patricia J. Glenn*, 53 ECAB 159 (2001).

⁷ *Robert Broome*, *supra* note 1.

ORDER

IT IS HEREBY ORDERED THAT the May 4, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 24, 2008
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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