United States Department of Labor
Employees' Compensation Appeals Board

S.E., Appellant	)	
	)	**Docket No. 08-230**
and	)	**Issued: May 15, 2008**
	)	
DEPARTMENT OF HOMELAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION, Grand Junction, CO, 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
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 6, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' May 4, 2007 merit decision, which denied her traumatic injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

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

FACTUAL HISTORY

On February 25, 2007 appellant, then a 41-year-old transportation security officer, filed a claim alleging that she sustained a right arm injury while lifting a bag that day. She stated that she felt a pull on the right arm "just below the elbow." Appellant did not stop work but returned to a full-time limited-duty position.

In support of her claim, appellant submitted a hospital handout on tendinitis dated February 25, 2007, which noted that she was treated by Dr. Daniel S. Caplin, an osteopath. In a duty status report of the same date, he noted clinical findings of pain of the lateral aspect of the right elbow and hand. Dr. Caplin diagnosed tendinitis of the right elbow and returned appellant to work on February 25, 2007 subject to restrictions.

The employing establishment submitted a February 25, 2007 accident report prepared by Daniel Bontrager, appellant's supervisor. Appellant reported that while she was sampling luggage she experienced a pull on the lower right arm, below the elbow.

In a continuation of pay worksheet dated March 12, 2007, the Office noted that appellant returned to work full-time light duty on February 25, 2007 and her compensation case was closed. The Office noted that on March 12, 2007 she was referred to a field nurse for intervention.

By letter dated March 23, 2007, the Office advised appellant that her claim was originally received as a simple, uncontroverted case which resulted in minimal or no time loss from work. The Office indicated that appellant's claim was administratively handled to allow medical payments up to $1,500.00; however, the merits of the claim had not been formally adjudicated. The Office advised that, because she had not returned to full duty and because a field nurse had been assigned to her case, her claim would be formally adjudicated. The Office requested that appellant submit additional information including a comprehensive medical report from her treating physician which included a reasoned explanation as to how the specific work factors or incidents identified by appellant had contributed to her claimed right arm injury.

Appellant submitted a progress report from Dr. Caplin dated April 10, 2007, who diagnosed tendinitis of the lateral epicondyle and administered a tendon injection into the right elbow. He returned appellant to modified duty from April 10 to 20, 2007, subject to restrictions. Dr. Caplin anticipated appellant would reach maximum medical improvement by May 10, 2007.

In a decision dated May 4, 2007, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that her condition was caused by the February 25, 2007 incident at work.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 filed within the applicable time limitation 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. These are the essential

[1] *Id.*

elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[2]

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[3] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.[4]

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] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[6]

ANALYSIS

Appellant alleged that she sustained a right arm injury while lifting a bag. The Board notes that the lifting incident occurred on February 25, 2007 as alleged. The Board finds, however, that the medical evidence is insufficient to establish that appellant sustained a right arm injury causally related to the February 25, 2007 lifting incident. On March 23, 2007 the Office advised appellant of the medical evidence needed to establish her claim. Appellant did not submit a rationalized medical report from an attending physician addressing how specific employment factors may have caused or aggravated her diagnosed tendinitis.

Appellant submitted a February 25, 2007 duty status report from Dr. Caplin, who noted clinical findings of pain of the lateral aspect of the right elbow and hand and diagnosed tendinitis of the right elbow. He returned appellant to work on February 25, 2007, subject to restrictions.

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[2] *Gary J. Watling*, 52 ECAB 357 (2001).

[3] *Michael E. Smith*, 50 ECAB 313 (1999).

[4] *Id*.

[5] *Leslie C. Moore*, 52 ECAB 132 (2000).

[6] *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

Dr. Caplin's report is insufficient to establish the claim as the physician did not provide a history of injury or specifically address how the lifting incident that day caused or aggravated the diagnosed medical condition.[7] Therefore, this report is insufficient to meet appellant's burden of proof.

Appellant also submitted an April 10, 2007 report from Dr. Caplin, who reiterated the diagnosis and administered a tendon injection into the right elbow. He returned appellant to modified duty from April 10 to 20, 2007, subject to restrictions, and anticipated appellant would reach maximum medical improvement by May 10, 2007. However, Dr. Caplin's report did not provide a history of the accepted lifting incident or explain how it caused or contributed to tendinitis of the right upper extremity.[8] Therefore, this report is insufficient to meet appellant's burden of proof.

The remainder of the medical evidence, including the hospital handout fails to provide any opinion on the causal relationship between appellant's lifting incident and her diagnosed tendinitis. For this reason, the evidence is not sufficient to establish her claim.

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.[9] Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office therefore properly denied appellant's claim for compensation.

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish that she sustained a right arm injury causally related to her February 25, 2007 employment incident.[10]

[7] *A.D.*, 58 ECAB ___ (Docket No. 06-1183, issued November 14, 2006) (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).

[8] *Id.*

[9] *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[10] After the May 4, 2007 Office decision appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c).

ORDER

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

Issued: May 15, 2008
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