

¹ Appellant has an accepted claim (xxxxxxx866) for right ganglion cyst and right carpal tunnel syndrome, which arose on or about September 1, 1985.

day. She also noted that the chair she used was not ergonomically safe. Additionally, appellant claimed there was a continuous flow of cold air blowing directly on her right side.²

In April 2007, Dr. Margit L. Bleecker, a Board-certified neurologist, began treating appellant with respect to her right upper extremity.³ In addition to right carpal tunnel syndrome, Dr. Bleecker diagnosed lateral epicondylitis, ulnar neuritis, thoracic outlet syndrome, myofascial pain syndrome and tendinitis of the right rotator cuff.

In a report dated May 21, 2008, Dr. Bleecker noted that appellant's right shoulder was always aching. Appellant also reported pain shooting to the elbow. Additionally, Dr. Bleecker noted that there was a lot of tension in the right shoulder and neck area. Appellant reportedly attributed the stiffness to cold air blowing on her and having to sit on a broken chair without adequate back support. Dr. Bleecker commented that appellant worked at a desktop with a keyboard, a mouse and a gel wrist rest to alleviate pain in her right wrist. She explained that shoulder ergonomic stressors included reaching for mail from trays and then reaching to replace mail when appellant finished keying. Dr. Bleecker noted that another major problem was the position of appellant's monitor, which was "to the left and too high." According to her, appellant was constantly looking down at the mail and then having to look up to the left to check the monitor to see if the information entered was correct. Dr. Bleecker indicated that the pain in the shoulder area originated in the muscles, which had increased tension and active trigger points. She explained that this developed because of appellant's constant looking up to the left at her monitor. Dr. Bleecker described a more suitable placement for the monitor that would prevent constant rotation and extension of the neck. With respect to appellant's decreased shoulder range of motion, she indicated that it was most likely tendinitis of the rotator cuff due to constant reaching to retrieve mail from trays and replace it when finished.

On August 14, 2008 the Office denied the claim because appellant failed to establish that her diagnosed condition was due to her employment activities. Appellant requested a review of the written record. However, she did not submit additional evidence. By decision dated December 4, 2008, the hearing representative similarly found that appellant failed to establish that her right shoulder condition was due to her employment. In both decisions the Office found that Dr. Bleecker had not adequately explained her opinion on causal relationship.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act⁴ has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as

² On June 10, 2008 the Office sought additional information regarding appellant's specific employment duties. However, neither appellant nor the employing establishment provided a detailed account of appellant's job duties and work environment on or about December 1, 2007. Rose E. Day, an acting supervisor, indicated that appellant had "no real job description for her position."

³ Dr. Bleecker first treated appellant on April 19, 2007.

⁴ 5 U.S.C. §§ 8101-8193 (2006).

alleged and that any specific condition or disability claimed is causally related to the employment injury.⁵

To establish that an injury was sustained in the performance of duty, a claimant 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 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 diagnosed condition is causally related to the identified employment factors.⁶

ANALYSIS

Proceedings under the Act are not adversarial in nature and the Office is not a disinterested arbiter. While the claimant has the burden to establish her entitlement, the Office shares responsibility in the development of the evidence to see that justice is done.⁷ Although Dr. Bleecker's opinion is insufficient to discharge appellant's burden of proving that the claimed right shoulder condition is causally related to her federal employment, this evidence is sufficient to require further development of the case record by the Office.⁸ On remand, the Office should refer appellant, the case record, and a statement of accepted facts to an appropriate orthopedic specialist for an evaluation and a rationalized medical opinion regarding whether appellant's claimed right shoulder condition is causally related to her federal employment.⁹ After the Office has developed the case record to the extent it deems necessary, a *de novo* decision shall be issued.

⁵ 20 C.F.R. § 10.115(e), (f) (2008); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

⁶ *Victor J. Woodhams*, *supra* note 5.

⁷ *Horace L. Fuller*, 53 ECAB 775, 777 (2002); *James P. Bailey*, 53 ECAB 484, 496 (2002); *William J. Cantrell*, 34 ECAB 1223 (1983).

⁸ See *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

⁹ The Office has not made any findings with respect to appellant's specific employment duties on or about December 1, 2007. Neither the employing establishment nor appellant was particularly responsive to the Office's June 10, 2008 request for information regarding appellant's specific employment duties. Dr. Bleecker appears to have been privy to much more information regarding appellant's job duties. On remand, the Office should again solicit input from both appellant and the employing establishment regarding the limited-duty assignment appellant was reportedly performing at the time of her alleged injury. This information should then be incorporated into the statement of accepted facts.

CONCLUSION

The Board finds that the case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the December 4, 2008 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further action consistent with this decision.

Issued: October 26, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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