United States Department of Labor
Employees' Compensation Appeals Board

C.G., Appellant	)	
and	)	**Docket No. 10-222**
	)	**Issued: August 2, 2010**
U.S. POSTAL SERVICE, POST OFFICE, Atlanta, GA, 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
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On October 29, 2009 appellant filed a timely appeal of an October 7, 2009 decision of the Office of Workers' Compensation Programs denying her claim for compensation. 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 met her burden of proof to establish that she sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On July 25, 2009 appellant, then a 54-year-old mail handler, filed an occupational disease claim alleging shoulder, arm and back pain from pushing and pulling equipment, carrying mail, reaching into different types of equipment and bending over to sort mail. She first realized that

her employment activities caused or aggravated her claimed condition on July 17, 2009. Appellant did not stop work.[1] The employing establishment controverted the claim.

In an April 22, 2009 report, Dr. Shevin Pollydore, a Board-certified physiatrist, diagnosed low back pain, numbness and tingling in the upper and left lower extremities, possible lumbosacral radiculitis, cervicalgia and cervical strain. He recommended physical therapy. On June 10, 2009 Dr. Pollydore diagnosed lumbar spinal stenosis severe at L3-4 and L4-5, lumbar disc herniation with central protrusion at L4-5, numbness and tingling in the left upper and lower extremities, possible lumbosacral radiculitis and left carpal tunnel syndrome. He advised light duty and listed restrictions.

A July 22, 2009 duty status report with an illegible signature diagnosed bilateral rotator cuff tear. It noted that appellant could resume work but was unable to perform her regular duties. Another July 22, 2009 report with an illegible signature contained her left shoulder range of motion measurements and an impairment rating.

On August 24, 2009 the Office advised appellant of the factual and medical evidence necessary to establish her claim and allowed her 30 days to submit such evidence.

Appellant submitted an undated statement indicating that her daily duties as a mail handler required loading a moving belt with bundle mail from a pallet that required her to bend and lift mail onto the belt. She also pushed containers of mail onto the belt. Appellant indicated that she developed back, arm and leg problems from the repetitive motion of these duties. She further indicated that lifting and bending at work caused degenerative disc disease. Appellant first experienced back pain on June 15, 2008 after working as a mail handler for two years. She noted feeling more pain when working on the loose mail belt where she had to bend, lift and push mail. Appellant stated that the employing establishment provided a modified assignment on September 19, 2008. She continued this assignment until February 2, 2009 when her physician changed her work restrictions. The employing establishment subsequently reduced appellant's hours and moved her to another work area.

In a March 2, 2009 report, Dr. Pollydore found low back pain, numbness and tingling in the left extremities, possible lumbosacral radiculitis, cervicalgia and cervical strain. He indicated that appellant could work light duty with restrictions. In a March 19, 2009 health care provider form, Dr. Pollydore stated that, according to appellant, her condition commenced on November 18, 2008. He noted it was necessary for her to work less than a full schedule due to scheduled diagnostic testing. In an August 5, 2009 return to work status form report, Dr. Pollydore reiterated his diagnosis of severe lumbar spinal stenosis at L3-4 and L4-5, lumbar disc herniation with central protrusion at L4-5, numbness and tingling in the left upper and lower extremities, possible lumbosacral radiculitis and left carpal tunnel syndrome. He also advised that appellant could work with restrictions. An August 5, 2009 health care provider form provided similar information.

[1] Appellant also submitted a February 16, 2009 occupational disease claim form and an undated traumatic injury claim form alleging degenerative disc disease. However, none of these claim forms were completed by the employing establishment.

In a June 16, 2008 treatment note, Dr. James H. Hipkens, a Board-certified internist, advised that appellant had been ill since June 16, 2008 and was unable to work until June 18, 2008. He did not provide findings or a diagnosis. In a November 26, 2008 report, Dr. Herman Lee, an osteopath and Board-certified internist, indicated that appellant's lumbar spine x-ray revealed hypertrophic changes and disc space narrowing from L3 through L5 compatible with degenerative disc disease. On December 11, 2008 he diagnosed constipation and abdominal pain. Dr. Lee advised these conditions were not work related.

In an October 7, 2009 decision, the Office denied appellant's claim finding that the medical evidence did not establish that the claimed medical condition related to the established work-related activities.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act 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; that an injury was sustained while 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 elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[2]

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 diagnosed condition is causally related to the employment factors identified by the claimant.[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 which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.[4]

[2] *J.E.*, 59 ECAB ___ (Docket No. 07-814, issued October 2, 2007); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[3] *D.I.*, 59 ECAB ___ (Docket No. 07-1534, issued November 6, 2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

[4] *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

The record supports that appellant's job as a mail handler required her to carry mail, push and pull equipment and bend over to sort mail. The Board finds that the medical evidence is insufficient to establish that these employment duties caused or aggravated her claimed back, shoulder and arm conditions.

In a March 19, 2009 health care provider form, Dr. Pollydore noted that appellant reported that her condition began on November 18, 2008. He also noted that she was unable to work her full schedule. However, Dr. Pollydore did not discuss whether appellant's duties as a mail handler caused or aggravated a diagnosed medical condition. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[5] Similarly, Dr. Pollydore's reports dated between March 2 and August 5, 2009 only diagnosed appellant's condition and recommended light duty. These reports did not otherwise address how her employment activities contributed to any of her diagnosed conditions. Dr. Pollydore did not provide any opinion noting appellant's employment and explaining the reasons particular employment factors caused or aggravated a diagnosed medical condition. Therefore, his reports are of little probative value.

Dr. Lee's November 26, 2008 report noted that a lumbar spine x-ray revealed hypertrophic changes, disc space narrowing and degenerative disc disease. He did not address the issue of causal relationship or explain how appellant's mail handler duties caused this lumbar condition. Dr. Lee's December 11, 2008 report does not support her claim as the physician diagnosed constipation and abdominal pain and explicitly opined that this was not a work-related condition. Likewise, Dr. Hipken's report did not diagnose any condition or address whether appellant's employment caused her disability.

The record also contains reports dated July 22, 2009 with illegible signatures. Neither report listed the names of any physicians nor is there other evidence of record containing a signature to authenticate the signatures on the July 22, 2009 reports. The Board has held that a medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in 5 U.S.C. § 8102(2) and reports lacking proper identification do not constitute probative medical evidence.[6]

On appeal, appellant asserts that her claim should be accepted as she did not have back problems until working as a mail handler. However, the underlying issue is medical in nature and requires rationalized medical evidence from a physician explaining how her job duties caused or contributed to her claimed back condition. As the record does not contain sufficient rationalized medical evidence, appellant did not meet her burden of proof.

[5] *S.E.*, 60 ECAB ___ (Docket No. 08-2214, issued May 6, 2009).

[6] *See R.M.*, 59 ECAB __ (Docket No. 08-734, issued September 5, 2008) (where the Board supported the authenticity of the evidence that contained earlier medical reports, signed by the physician and submitted on his letterhead); *see also D.D.*, 57 ECAB 734 (2006) (medical reports lacking proper identification cannot be considered as probative evidence in support of a claim).

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an occupational disease in the performance of duty.[7]

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated October 7, 2009 is affirmed.

Issued: August 2, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

[7] Appellant submitted new evidence on appeal. However, the Board may only review evidence that was in the record at the time the Office issued its final decision. 20 C.F.R. § 501.2(c).