

On February 25, 2009 appellant, a 51-year-old city carrier, filed a traumatic injury claim (Form CA-2) for right shoulder tendinitis. She attributed this condition to repetitive

casing/lifting. Appellant first became aware of her condition and that it was caused by her employment on February 19, 2009.¹

In a February 23, 2009 note, appellant described her work environment. She stated that on November 22, 2008 a route adjustment was implemented and that since that time the mail volume on her route was phenomenal. Appellant described working between 8½ to 12-hour days, five days a week. She alleged that the heavy lifting and long hours caused her right elbow tendinitis. Appellant also noted that she had a history of carpal tunnel syndrome in her right hand. She stated that initially she had believed that the pain in her right elbow and hand was related to the carpal tunnel condition, but that her physician had informed her that the carpal tunnel had nothing to do with her elbow tendinitis.

By letter dated March 6, 2009, the employing establishment controverted appellant's claim, arguing that the evidence of record did not demonstrate that her alleged condition arose in the performance of duty.

Appellant submitted a February 19, 2009 report, signed by Dr. John W. Sapp, a plastic surgeon, who noted that she had a history of carpal tunnel and an onset of right elbow pain two weeks prior. Dr. Sapp diagnosed carpal tunnel syndrome in appellant's right wrist and right elbow pain. He noted "context: there was no injury." Dr. Sapp did note that appellant's right elbow pain was aggravated by excessive lifting and gripping.

In a subsequent report dated March 5, 2009, Dr. Sapp diagnosed right lateral epicondylitis and carpal tunnel syndrome, conditions that he treated with steroid injections. On April 1, 2009 he noted that appellant's right elbow symptoms had improved. Dr. Sapp diagnosed right lateral epicondylitis and carpal tunnel syndrome, conditions for which she was "asymptomatic."

On April 14, 2009 appellant submitted results from diagnostic tests and a February 25, 2009 report, in which Dr. Joseph Brogdon, a neurologist, reported that an electromyogram (EMG) revealed no abnormality of either of appellant's upper extremities.

By decision dated May 6, 2009, the Office denied the claim because the evidence of record did not demonstrate that appellant's alleged right elbow condition was causally related to the established employment factors. It also noted that she had an accepted traumatic injury claim for carpal tunnel.

On May 26, 2009 appellant, through her attorney, requested an oral hearing.

At a hearing conducted on August 10, 2009, appellant and her attorney were present and she offered testimony concerning her history of injury, course of treatment, employment duties and how they caused her condition.

¹ Appellant has another claim, file number xxxxxx218, date of injury February 17, 2009, that was accepted for temporary aggravation of right carpal tunnel syndrome.

By decision dated November 3, 2009, the Office affirmed its May 6, 2009 decision, finding that the evidence of record did not demonstrate that appellant's right elbow condition was caused by the established employment factors.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of proof to establish the essential elements of her claim by the weight of the evidence,³ including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.⁴ As part of her burden, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background showing causal relationship.⁵ 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.⁶

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁷

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.⁸

² 5 U.S.C. §§ 8101-8193.

³ *J.P.*, 59 ECAB ____ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁴ *G.T.*, 59 ECAB ____ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *Id.*; *Nancy G. O'Meara*, 12 ECAB 67, 71 (1960).

⁶ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

⁷ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁸ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

The Office accepted the employment factors appellant deemed responsible for her condition. Appellant's burden is to demonstrate that her condition was caused by these established employment factors. Because causal relationship is a medical issue that can only be proven by probative medical opinion evidence, appellant's lay opinion is not relevant.⁹ The medical evidence of record lacks the requisite reasoning to establish causal relationship and, consequently, the Board finds that appellant has not established that she sustained an injury in the performance of duty, causally related to her employment.

The Board notes initially that the report by Dr. Brogdon, which interpreted appellant's EMG findings, had little probative value on the issue of causal relationship. Dr. Brogdon's report in fact reported that her EMG studies were normal and he offered no diagnosis or opinion regarding causal relationship.

While Dr. Sapp did diagnose right lateral epicondylitis, his reports lack a rationalized opinion, supported by sufficient medical rationale, explaining how established employment factors caused the condition diagnosed.¹⁰ He, in a February 19, 2009 report, reported the diagnosis and then stated, "context: there was no injury." Dr. Sapp did report that appellant's pain increased with lifting and gripping, but he never explained how the diagnosed conditions were caused or aggravated by appellant's specific job duties. Thus, this evidence does not establish the requisite causal relationship.

An award of compensation may not be based on surmise, conjecture or speculation.¹¹ Neither the fact that appellant's claimed condition became apparent during a period of employment nor her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.¹² The fact that a condition manifests itself or worsens during a period of employment¹³ or that work activities produce symptoms revelatory of an underlying condition¹⁴ does not raise an inference of causal relationship between a claimed condition and identified employment factors.

Because appellant has not submitted medical opinion evidence containing a reasoned discussion of causal relationship that explains how the established employment factors caused or aggravated the diagnosed medical condition, the Board finds that she has not established the essential element of causal relationship.

⁹ *Gloria J. McPherson*, 51 ECAB 441 (2000); *Sheila Arbour (Victor E. Arbour)*, 43 ECAB 779 (1992).

¹⁰ See *Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value).

¹¹ *Edgar G. Maiscott*, 4 ECAB 558 (1952) (holding appellant's subjective symptoms and self-serving declarations do not, in the opinion of the Board, constitute evidence of a sufficiently substantial nature).

¹² *D.I.*, 59 ECAB ____ (Docket No. 07-1534, issued November 6, 2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

¹³ *E.A.*, 58 ECAB 677 (2007); *Albert C. Haygard*, 11 ECAB 393, 395 (1960).

¹⁴ *D.E.*, 58 ECAB 448 (2007); *Fabian Nelson*, 12 ECAB 155, 157 (1960).

CONCLUSION

The Board finds that appellant has not established that she sustained a right elbow injury in the performance of duty causally related to her employment.

ORDER

IT IS HEREBY ORDERED THAT the November 3, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 20, 2010
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