U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN G. ROSSI and U.S. POSTAL SERVICE,
POST OFFICE, Boston, Mass.

Docket No. 95-2000; Submitted on the Record;
Issued March 9, 1998

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant established that he sustained an injury in the performance of his light-duty job.[1]

The Board has carefully reviewed the case record and finds that the medical evidence is insufficient to establish that appellant sustained any work-related condition as a result of performing the requirements of his light-duty position.

An employee seeking benefits under the Federal Employees' Compensation Act[2] 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 or specific condition for which compensation is claimed is causally related to the employment injury.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.[4]

In an occupational disease claim such as this, a claimant must submit: (1) medical evidence establishing the existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or

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[1] Appellant has filed two claims. The one before the Board is No. 010312721. Appellant's attorney stated in a letter dated October 31, 1994 that only this claim "has been submitted for reconsideration on its merits." He added that appellant has been working full time since July 5, 1994.

[2] 5 U.S.C. §§ 8101-8193 (1974).

[3] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

[4] *Id.*

contributed to the disease; and (3) medical evidence establishing that the employment factors were the proximate cause of the disease or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant.[5]

In determining whether an employee sustained an injury in the performance of his duty, the Office of Workers' Compensation Programs begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components considered in conjunction with one another.[6] The first component to be established is that the employee actually experienced the employment incident at the time, place, and manner alleged. In some cases, this first component can be established by an employee's uncontroverted statement which is consistent with the surrounding facts and circumstances and his subsequent course of action.[7] The second component, whether the employment incident caused a personal injury, generally must be established by medical evidence.[8]

In this case, appellant, then a 40-year-old mail handler, filed a notice of occupational disease on July 27, 1993, claiming that his bilateral epicondylitis[9] was aggravated by his work, causing severe pain in both elbows. Appellant stopped work on July 6, 1993.

In response to the Office's September 10, 1993 request for more information, appellant stated that his limited-duty job required the repetitive use of both hands in stamping mail and fine manipulation in distributing it. The repetition aggravated his preexisting condition, which first resulted in a disabling injury on September 8, 1988.[10] Appellant submitted medical reports from Dr. Mark R. Belsky, a Board-certified orthopedic surgeon who had treated him for lateral epicondylitis of his left elbow.

By letter dated October 6, 1993, the Office informed appellant that the medical evidence he submitted was insufficient to establish entitlement. The Office noted that appellant was now claiming bilateral epicondylitis but no physician had indicated what employment factors caused this condition.

In a decision dated October 29, 1993, the Office denied the claim on the grounds that the evidence failed to establish that an injury was sustained as alleged. The Office noted that the

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[5] *Jerry D. Osterman*, 46 ECAB 500, 507 (1995); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[6] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995); *see Elaine Pendleton*, 40 ECAB 1143, 1147 (1989).

[7] *Edgar L. Colley*, 34 ECAB 1691, 1695 (1983).

[8] *John J. Carlone*, 41 ECAB 354, 357 (1989).

[9] Epicondylitis is inflammation of the epicondyle or of the tissues adjoining the condyle (the articular prominence of a bone). *Dorland's Illustrated Medical Dictionary* (27th ed. 1988).

[10] Appellant's notice of traumatic injury filed on September 13, 1988 was accepted on August 3, 1989 for lateral epicondylitis of the left elbow. Appellant returned to work on July 23, 1990 but subsequently filed a notice of recurrence of disability, claim No. 010268646. The Office's initial denial of this claim was set aside by the hearing representative on July 7, 1993 and further development occurred. The status of this claim is not before the Board.

medical evidence did not contain a description of the employment factors that contributed to the diagnosed condition. The Office added that the employing establishment indicated that appellant was able to work at his own pace and that his job did not require fine manipulation.

On October 26, 1994 appellant requested reconsideration and submitted medical reports and office notes from Dr. Andrew L. Terrono, a Board-certified orthopedic surgeon. On January 26, 1995 the Office denied appellant's request after a merit review on the grounds that the medical evidence was insufficient to warrant modification of the prior decision.

The Board finds that none of the evidence submitted by appellant constitutes a rationalized medical opinion explaining how employment factors caused the diagnosed bilateral epicondylitis.

The mere fact that a physical condition manifests itself or is worsened during a period of employment does not raise an inference of causal relationship between the two.[11] Such causation must be shown by rationalized medical evidence based upon a specific and accurate history of employment incidents or conditions alleged to have caused or exacerbated an injury.[12]

Here, Dr. Terrono's office notes dated January 14, February 22, April 19 and August 19, 1994 made no reference to the cause of appellant's bilateral epicondylitis or to any employment factors. The August 19, 1994 note stated only that this was a work-related injury. The physician's January 7, 1994 note related appellant's condition to work and added that repetitive elbow and wrist motion would cause the problem.

Dr. Terrono described appellant's job as hand stamping mail, which required repetitive use of both hands including forearm manipulation, which "could certainly aggravate or cause the lateral epicondylitis on the right." Dr. Terrono stated that appellant's "injuries" were first noted in September 1988 when he felt his left elbow snap while lifting mail. Appellant reported that he was first treated for bilateral epicondylitis on April 24, 1991. Dr. Terrono concluded that appellant's bilateral epicondylitis "is work related, is aggravated by work, and should be considered a work-related injury."

While Dr. Terrono opined that appellant's bilateral epicondylitis was caused by repetitive motions, he offered no medical rationale for this conclusion other than referring to a left elbow condition first occurring in 1988. Dr. Terrono failed to explain how any repetitive action in stamping mail caused the epicondylitis in appellant's right elbow.[13]

The December 15, 1993 report of appellant's operation for posterior interosseous nerve decompression, debridement of extensor origin, partial lateral epicondylectomy (left), and aconeus muscle flap contained no opinion on the cause of appellant's right elbow condition. The

[11] *Robert G. Morris*, 48 ECAB ___ (Docket No. 95-1139, issued December 19, 1996).

[12] *Lee R. Haywood*, 48 ECAB ___ (Docket No. 95-469, issued October 23, 1996).

[13] *See Donald W. Long*, 41 ECAB 142, 146 (1989) (finding that a physician's opinion that appellant's epicondylitis was related to his work had little probative value without any medical rationale).

disability forms dated December 23, 1993, April 29 and June 24, 1994 diagnosed bilateral epicondylitis and stated that the condition was caused by lifting tubs of mail, but failed to explain how the epicondylitis developed from appellant's light-duty job, which did not include such lifting.[14]

The March 8, 1993 report from Dr. Belsky discussed appellant's left elbow pain but stated that appellant was really no different than he had been in July 1991 when Dr. Belsky first treated him. Dr. Belsky stated that heavy lifting or repetitive tasks would aggravate appellant's elbow but offered no rationale connecting specific work requirements to his lateral epicondylitis. Thus, his report has diminished probative value.[15]

The January 26, 1995 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
March 9, 1998

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

[14] *See Ruth S. Johnson*, 46 ECAB 237, 242 (1994) (finding that a causation opinion that consists only of checking "yes" to a form question has little probative value and is thus insufficient to establish causal relationship).

[15] *See Alberta S. Williamson*, 47 ECAB ___ (Docket No. 94-1762, issued May 7, 1996) (finding that appellant failed to meet her burden of proof in establishing that her disease was caused by employment factors).