

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROBERT E. JOHNSON and U.S. POSTAL SERVICE,  
POST OFFICE, Wallingford, CT

*Docket No. 98-1842; Submitted on the Record;  
Issued April 24, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty causally related to factors of his federal employment.

On December 9, 1997 appellant, then a 50-year-old laborer-custodial, filed an occupational disease claim (Form CA-2),<sup>1</sup> alleging a right wrist condition due to cutting and making boxes into bails, cleaning and mopping restrooms, and waxing, stripping and buffing floors. He stated that he first became aware of the condition on July 11, 1997 and related it to his employment on July 14, 1997. On the reverse side of the form, the employing establishment indicated that appellant stopped work on July 11, 1997 and had not returned.

Accompanying the claim form, the employing establishment submitted a December 4, 1997 attending physician's report (Form CA-20) by Dr. Babu Kumar who indicated a history of injury of left wrist pain, no diagnosis was given, but he checked "yes" to the question of whether appellant's condition was caused or aggravated by his employment. Under remarks he stated, "[appellant's] present condition is complicated by recent auto[mobile] accident." Dr. Kumar referred appellant to a rheumatologist; August 5 and 9, 1997 return to work certificates by Dr. Kumar indicating appellant is under his care for right wrist pain; a December 18, 1997 letter from appellant's supervisor describing his job duties and controverting appellant's claim; and a December 19, 1997 letter from the employing establishment also controverting appellant's claim.

By letter dated January 6, 1998, the Office of Workers' Compensation Programs requested detailed factual and medical information from appellant. By another letter dated January 6, 1998, the Office requested factual information from the employing establishment.

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<sup>1</sup> The record supports that on February 9, 1994 appellant filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) for a right hand/wrist injury. Appellant received physical therapy from February 9 through June 9, 1994.

On January 26, 1998 the record was supplemented with an employing establishment approval for light duty as of January 21, 1998; a January 6, 1998 report by Dr. Kuma indicating that appellant could return to work on light duty from January 17 to February 1, 1998; and an undated report by Dr. Kuma indicating that appellant was initially seen for right wrist pain which occurred after a job-related injury and was treated by Dr. Jacqueline Buza. Dr. Kuma also stated that appellant was involved in an automobile accident on November 24, 1997; and appellant's January 19, 1998 response to the Office's January 6, 1998 request for additional information.

On February 3, 1998 the record was supplemented with the employing establishment's January 28, 1998 response to the Office's January 6, 1998 request for additional information, qualification standards and appellant's job description.

By decision dated February 23, 1998, the Office denied appellant's claim finding that the evidence of record failed to establish that he sustained an injury in the performance of duty causally related to factors of his employment.

The Board finds that appellant has failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty causally related to factors of his federal employment.

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 limitations 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 is causally related to the employment injury."<sup>2</sup> 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.<sup>3</sup>

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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. 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

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<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

<sup>3</sup> *David J. Overfield*, 42 ECAB 718, 721 (1991).

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.<sup>4</sup>

In the instant case, there is no dispute that appellant has a right wrist condition. However, there is no rationalized medical opinion evidence to support a causal relationship between appellant's factors of employment and his right wrist condition. The medical evidence submitted, a December 4, 1997 attending physician's report by Dr. Kumar, gave a history of left wrist pain, and checked "yes" to the question of whether appellant's condition was caused or aggravated by his employment. Dr. Kumar failed to provide a diagnosis or to provide any rationale to support his opinion on causal relationship. He also mentioned that appellant was in an automobile accident which complicated appellant's present condition. Therefore, Dr. Kumar's December 4, 1997 attending physician's report is insufficient to establish appellant's occupational disease claim. On a January 6, 1998 form Dr. Kumar indicated that appellant could perform light duty effective January 17, 1998. Dr. Kumar failed to provide a diagnosis, or to address the issue of causal relationship between a diagnosed condition and the factors of employment to which appellant attributed his condition. The January 6, 1998 form is insufficient to establish appellant's occupational disease claim. In an undated report received by the Office on January 26, 1998, Dr. Kumar stated that he initially saw appellant for right wrist pain which occurred after a job-related injury. He indicated that appellant was treated by Dr. Buza for the injury. Dr. Kumar failed to provide his own diagnosis or to causally relate a diagnosed condition to the factors of employment to which appellant attributed his condition. His undated report is also insufficient to establish appellant's occupational disease 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 his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence. By letter dated January 6, 1998, the Office advised appellant of the specific evidence needed to establish his claim for a right wrist condition, but such evidence was not submitted. Therefore, the evidence of record is insufficient to meet appellant's burden of proof and the Office properly denied appellant's claim.

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<sup>4</sup> *Id.*

The decision of the Office of Workers' Compensation Programs dated February 23, 1998 is affirmed.<sup>5</sup>

Dated, Washington, D.C.  
April 24, 2000

Michael J. Walsh  
Chairman

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>5</sup> The Board notes that subsequent to the issuance of the Office's decision and on appeal, appellant submitted medical evidence which was not previously before the Office. As this evidence was not previously submitted to the Office for consideration prior to its decision of February 23, 1998, the evidence represents new evidence which cannot be considered by the Board. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant should resubmit this evidence to the Office, together with a formal request for reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b).