

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of COLLEEN B. CUNNINGHAM and U.S. POSTAL SERVICE,
POST OFFICE, Portland, ME

*Docket No. 99-168; Submitted on the Record;
Issued April 17, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant sustained an injury in the performance of duty, as alleged.

The Board has duly reviewed the case record and finds that appellant has not established the fact of injury, as alleged.

On April 4, 1998 appellant filed a claim for an occupational disease, Form CA-2, alleging that she suffered inflammation and pain in her wrist when she went home after work and her left wrist was burning. She stated that she was unable to drive for one day and unable to lift "things," that the feeling went away after one and a half days, but had recurred three times. Appellant stated that she first sought medical treatment on March 31, 1998.

In a routing slip to the postmaster dated April 4, 1998, appellant indicated that she was undergoing physical therapy.

By letter dated May 5, 1998, the Office of Workers' Compensation Programs stated that additional information was required including a detailed description of the employment-related activities, which appellant believed contributed to her condition and a narrative medical report from her physician including an explanation as to how her work activities contributed, if at all.

By letter dated May 12, 1998, the postmaster stated that appellant averaged between 12 to 15 hours a week and that she sorted the mail about 9 hours. He also stated that appellant's home business required a lot of computer work, which he thought could cause her symptoms. The employing establishment submitted a description of appellant's job duties.

By letter dated May 18, 1998, appellant stated that she began have pain in her left wrist in the beginning of 1998 and it occurred after working at the employing establishment, specifically after breaking down and sorting the mail. She stated that she saw a doctor twice and he prescribed a brace, anti-inflammatories and physical therapy.

By decision dated July 7, 1998, the Office denied the claim, stating that appellant did not establish that she sustained an injury, as alleged.

To establish that an injury was sustained in the performance of duty, an appellant must submit the following: (1) medical evidence establishing the presence or existence of the condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the 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 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 appellant'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 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 appellant.¹

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and her subsequent course of action. In determining whether a *prima facie* case has been established, such circumstances as late notification of injury, lack of confirmation of injury, and failure to obtain medical treatment may, if otherwise unexplained, cast serious doubt on a claimant's statements. The employee has not met her burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim.² However, an employee's statement that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.³

In the present case, appellant has failed to meet her burden of proof as she did not present any evidence either circumstantial or medical to confirm that she sustained an injury in the performance of duty, as alleged. The Office informed appellant of the information that she must submit to establish her claim but appellant did not comply. The Office, therefore, properly denied her claim.

¹ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

² *Linda S. Christian*, 46 ECAB 598, 600-01 (1995); *Carmen Dickerson*, 36 ECAB 409, 415 (1985).

³ *Linda S. Christian*, *supra* note 2 at 601; *Virgil F. Clark*, 40 ECAB 575, 584-86 (1989).

The decision of the Office of Workers' Compensation Programs dated July 7, 1998 is hereby affirmed.

Dated, Washington, D.C.
April 17, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member