

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANDRE DURHAM and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS HOSPITAL, Breckville, OH

*Docket No. 99-1631; Submitted on the Record;
Issued August 11, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty.

The Board has duly reviewed the case on appeal and finds that appellant has failed to meet his burden of proof in establishing an injury in the performance of duty.

Appellant, a housekeeper, filed a claim on September 29, 1998 alleging on September 20, 1998 he reinjured his left shoulder lifting trash and mopping and reinjured his left knee and hip kneeling and bending cleaning toilets. By decision dated December 28, 1999, the Office of Workers' Compensation Programs denied appellant's claim finding that he failed to submit the necessary medical evidence to establish a causal relationship between his medical condition and his federal employment.

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.¹ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.² 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

¹ *Elaine Pendleton*, 40 ECAB 1143 (1989).

² *John M. Tornello*, 35 ECAB 234 (1983).

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 claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.³

In this case, appellant failed to provide the necessary medical evidence to establish a causal relationship between his condition and his federal employment. Appellant submitted several notes indicating that he should perform limited duty. These notes did not provide a diagnosis nor an opinion on the causal relationship between appellant's condition and his federal employment. Therefore, these notes are not sufficient to meet appellant's burden of proof.

In a note dated September 27, 1998, the physician stated that appellant reported that he aggravated his shoulder, hip, knee and lower back. Appellant stated that he experienced an increase in pain after a return to full duty. The physician diagnosed multiple joint pains but did not provide an opinion on the causal relationship between these pains and appellant's federal employment.

As appellant failed to provide the necessary medical evidence including a diagnosis of his condition, an opinion that this condition was caused or aggravated by his federal employment and a medical explanation of how this occurred, he failed to meet his burden of proof and the Office properly denied his claim.

The December 28, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
August 11, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

³ *James Mack*, 43 ECAB 321 (1991).