

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RODNEY JONES and U.S. POSTAL SERVICE,  
POST OFFICE, Des Moines, IA

*Docket No. 00-467; Submitted on the Record;  
Issued December 19, 2000*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
VALERIE D. EVANS-HARRELL

The issue is whether appellant met his burden of proof to establish that he sustained left shoulder and cervical conditions in the performance of duty.

On November 4, 1996 appellant, a 34-year-old letter carrier, began to experience pain in his neck and left shoulder. He filed a claim for benefits on July 3, 1999, alleging that this condition was caused or aggravated by factors of his federal employment.

By letter dated July 23, 1999, the Office of Workers' Compensation Programs advised appellant that the evidence he submitted was not sufficient to determine whether he was eligible for compensation benefits. Appellant was requested to submit a detailed description of the specific employment-related factors he believed contributed to his conditions. The Office also asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition and an opinion as to whether factors or incidents, *i.e.*, specific employment factors, at his employing establishment contributed to his condition.

Appellant submitted several reports from Dr. Timothy G. Kenney, a Board-certified orthopedic surgeon, dated from July and August 1999. Dr. Kenney stated findings on examination and diagnosed a probable impingement syndrome of the left shoulder, with possible neck and radicular left arm pain. In a report dated August 10, 1999, he noted he did not believe appellant's current work duties caused all the discomfort he was experiencing as appellant had not sustained a specific work injury and had experienced other problems. In a report dated August 24, 1999, Dr. Kenney advised:

“With the past history of this condition being present over several years and with the current nature of his symptoms, I do not believe that his work is the primary causative factor of the development for this. Any type of painful condition would be exacerbated by any job requiring use of the arms. I do not feel that his work

activities are a significant enough exacerbating factor to have this considered a [workers' compensation] situation....”

By decision dated September 9, 1995, the Office denied appellant's claim on the grounds that the claimed medical condition was not causally related to factors or incidents of employment.

The Board finds that appellant did not meet his burden of proof to establish that he sustained left shoulder and cervical conditions in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing that 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 timely filed within the applicable time limitation period 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 are 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 an 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 the claimant. The medical evidence required to establish causal relationship is usually 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 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 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 present case, the only medical evidence bearing on causal relationship were the July and August reports from Dr. Kenney, who doubted any causal relationship between appellant's left shoulder and neck conditions and factors or incidents of employment. Appellant, therefore, has failed to submit sufficient probative medical evidence establishing that his

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

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

diagnosed shoulder and cervical conditions are causally related to the alleged employment factors.

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.<sup>5</sup> Causal relationship must be established by rationalized medical opinion evidence. The Office advised appellant of the type of evidence required to establish his claim; however, appellant failed to submit such evidence. The evidence submitted by Dr. Kenney suggested that appellant's shoulder and neck pain could have stemmed from various causes. More importantly, Dr. Kenney noted that there was no causal relationship between appellant's left shoulder and cervical conditions and any employment factors.

Accordingly, as the only medical opinion of record submitted by appellant was that of Dr. Kenney, who rejected any causal relationship between appellant's claimed conditions or disability and factors or incidents of employment the Office properly denied appellant's claim for compensation.

The decision of the Office of Workers' Compensation Programs dated September 9, 1999 is hereby affirmed.

Dated, Washington, DC  
December 19, 2000

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member

Valerie D. Evans-Harrell  
Alternate Member

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<sup>5</sup> See *id.*