

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEVEN L. TWENTER and U.S. POSTAL SERVICE,
POST OFFICE, Kansas City, MO

*Docket No. 99-423; Submitted on the Record;
Issued June 1, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained a bilateral elbow, arm and wrist condition in the performance of duty, causally related to factors of his employment.

On November 21, 1996 appellant, then a 44-year-old mailhandler and group leader, filed an occupational disease claim (Form CA-2) alleging that the pain in his elbows, arms and wrists was caused by repetitiously lifting and handling letter trays and packages during his federal employment. He indicated on the claim form that he initially became aware of his condition and related it to his federal employment on October 21, 1996.

By written statement dated September 17, 1996, appellant asserted that his job required bending, twisting, pushing and pulling in the course of working with mail and equipment. He added that he was required to lift bags of mail weighing up to 70 pounds and flat trays of business mail.

On the reverse side of the claim form, appellant's supervisor noted that appellant received treatment on October 21, 1996 from Dr. Melvin Karges, a general practitioner specializing in physical medicine and rehabilitation, and Dr. Barry Rose, a Board-certified orthopedic surgeon. His supervisor further noted that appellant was involved in an automobile accident on September 16, 1996;¹ that he was working in a light-duty capacity with restrictions against lifting in excess of 20 pounds; that the maximum number of hours he worked was 8 hours per day; and that he was capable of a minimum of an 8-hour workday.

In support of his claim, appellant submitted an unsigned medical report completed by Dr. Rose dated October 21, 1996. In the report, he stated that appellant experienced elbow pain "and does a lot of lifting of packages and mail, etc. which tend to aggravate him." He diagnosed medial and lateral epicondylitis related to overuse during employment.

¹ The Board notes that the automobile accident was not employment related.

By letter dated December 30, 1996, the Office of Workers' Compensation Programs informed appellant that the medical evidence submitted to support his claim was deficient and allowed 30 days for him to respond to its request for additional factual and medical evidence.

By letter dated December 30, 1996, the Office requested additional information from appellant's supervisor regarding the accuracy of appellant's claim, the nature of his employment duties and appellant's position description. In response, Carlous H. Abner, appellant's supervisor, submitted, *inter alia*, a position description revealing that mailhandler, group leader duties and responsibilities include separating bulk mail, loading and unloading equipment, operating equipment, moving mail receptacles and a variety of routine leadership tasks. Appellant's supervisor noted that the physical requirements of appellant's position often require bending his back, twisting his back and shoulders, and often lifting loads ranging from 5 to 40 pounds. Other physical requirements are standing 8 hours daily on concrete and wooden surfaces, seldom carrying loads up to 40 pounds and pushing loads up to 295 pounds as needed.

On February 8, 1997 appellant submitted a January 14, 1997 report from Dr. Terrence Pratt, Board-certified in physical medicine and rehabilitation. He submitted a narrative report dated January 31, 1997 from Dr. Neal D. Lintecum, an orthopedic surgeon, on February 13, 1997. Appellant also submitted a February 17, 1997 progress report from Dr. Pratt discussing appellant's unrelated-back condition.

By letter dated April 30, 1997, the Office requested additional medical evidence from Dr. Pratt. The Office requested a detailed, narrative medical report fully responding to the attached questions. Along with its letter, the Office enclosed a statement of accepted facts in order to assist Dr. Pratt with his response. His response dated April 23, 1997 recommended that appellant seek alternative medical treatment and did not address the Office's questions. Dr. Pratt also submitted progress notes concerning appellant's April 4, 1997 office visit for a back injury.

By decision dated August 8, 1997, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish causal relationship between appellant's alleged occupational disease and his employment factors. The Office found that the initial evidence of file was insufficient to establish a relationship between the employment factors and appellant's medical condition. Further, the Office found that the additional medical evidence submitted by Dr. Pratt was similarly insufficient and failed to address the Office's specific questions.

By letter dated August 6, 1998, appellant requested reconsideration of the Office's August 8, 1997 decision denying his claim. In support of his request for reconsideration, appellant submitted magnetic resonance imaging (MRI) reports for his right and left elbows, as well as a progress report dated August 6, 1998 from Dr. Rose. The Office pointed out that neither the MRI reports or the progress report are probative on the issue of causal relationship.

By decision dated September 23, 1998, the Office denied appellant's claim on the grounds that the additional medical evidence submitted with appellant's reconsideration request was insufficient to warrant modification of its previous decision.

The Board finds that appellant has not met his burden of proof in establishing that his bilateral elbow, arm and wrist conditions were sustained in the performance of duty, causally related to factors of his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act² 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 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.³ Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.⁴

In an occupational disease claim, it must be established that a condition was sustained in the performance of duty by submitting 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.⁵ The medical evidence required to establish a causal relationship between the occupational disease or condition and the identified employment factors is, generally, rationalized medical opinion evidence.⁶ The opinion of a 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 relationship between the diagnosed condition and the employment factors identified by the claimant.⁷

In this case, the Office found that appellant failed to establish a causal relationship between his diagnosed condition and the implicated employment factors in its August 8, 1997 and September 23, 1998 decisions. His bilateral elbow, arm and wrist conditions are not disputed, but the medical evidence is insufficient to show causal relationship to the employment factors.

In his October 21, 1996 progress report, Dr. Rose merely noted appellant's symptoms and persistent medial and lateral epicondylitis diagnosis and stated that appellant's condition was "related to overuse" at work. His opinion, however, is of limited probative value because it does not contain sufficient medical rationale in support of its conclusion. The probative value of this report is further diminished as it is unsigned. The Board has held that any medical evidence

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *See Ronald K. White*, 37 ECAB 176, 178 (1985).

⁵ *Victor J. Woodhams*, 41 ECAB 345, 352.

⁶ *Id.*

⁷ *Thomas L. Hogan*, 47 ECAB 323, 329 (1996).

which the Office relies upon to resolve an issue must be in writing and signed by a qualified physician.⁸

Similarly, Dr. Pratt's reports and progress notes dated January 14 and 31, February 17 and 21, March 10 and April 4, 1997 are of diminished probative value because they do not address the nature of the relationship between appellant's condition and the implicated employment factors. The Board notes that the report dated January 14, 1997 is wholly irrelevant as it discusses appellant's unrelated-back condition.

Dr. Lintecum's narrative report is also of diminished probative value because it did not discuss the relationship between appellant's condition and the implicated employment factors.

Finally, the MRI reports dated April 18 and May 11, 1998 submitted in support of appellant's reconsideration request are also devoid of medical opinion evidence relating appellant's condition to the employment factors.

As appellant has failed to submit any rationalized medical opinion evidence relating his claimed condition to factors of this federal employment, he has not met his burden of proof in establishing that he sustained bilateral elbow, arm and wrist conditions in the performance of duty causally related to factors of his federal employment.

The decision of the Office of Workers' Compensation Programs dated September 23, 1998 is affirmed.

Dated, Washington, D.C.
June 1, 2000

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

⁸ *James A. Long*, 40 ECAB 538 (1989); *Walter A. Fundinger*, 37 ECAB 200 (1985).