U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARVIN HAND and U.S. POSTAL SERVICE,
POST OFFICE, Duluth, GA

Docket No. 01-44 Submitted on the Record;
Issued August 17, 2001

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

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

On June 14, 2000 appellant, then a 39-year-old mail carrier, filed a notice of occupational disease (Form CA-2) alleging that on September 9, 1999 he became aware of sharp pain in his left forearm, elbow, bicep and sometimes shoulder. He also indicated that the right arm had similar symptoms but they were not as severe.[1] Appellant indicated that this was the result of sorting mail four to six hours a day. He did not stop work.

In a June 5, 2000 report, Dr. Michael Morris, a Board-certified family practitioner, stated that appellant returned for a follow up of his left carpal tunnel release and indicated that his nerve symptoms had resolved as well as the hand problems. Dr. Morris noted that appellant had new complaints of some shoulder and arm pain but since they were new, he informed appellant that they were not covered by workers compensation. He indicated that the left carpal tunnel release was doing much better and he was going to "wean appellant back into work activities and modified duty the next few weeks."

In a June 5, 2000 physician's work link report, Dr. Morris diagnosed right wrist carpal tunnel release and indicated that appellant could return to modified duty.

In a July 12, 2000 letter to the employing establishment, the Office of Workers' Compensation Programs requested additional factual information.

In a July 12, 2000 letter, the Office advised appellant of the additional factual and medical evidence needed to establish his claim and requested that he submit such. Appellant

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[1] Appellant indicated on the form that he had filed an earlier claim on September 9, 1999. This claim was for carpal tunnel syndrome and left shoulder inflammatory disease.

was advised that submitting a rationalized statement from his physician addressing any causal relationship between his claimed injury and factors of his federal employment was crucial. He was allotted 30 days to submit the requested evidence.

In an August 1, 2000 letter, appellant stated that he spent an average of 57 hours a week as a mail carrier sorting mail. He indicated that his left arm and hand were used exclusively to sort mail while delivering to mailboxes in residential areas, often reaching with his left side to retrieve parcels from the back of the postal vehicle. Appellant stated that he did not participate in any type of organized sports, lift weights or play a musical instrument.

In an August 9, 2000 physician's work link report, Dr. Morris indicated that appellant could return to modified duty. He diagnosed left wrist tendinitis and ulnar nerve entrapment.

The employing establishment provided a copy of the position description, which included; sorting and delivering mail.

In an August 23, 2000 decision, the Office denied appellant's claim for compensation, as the medical evidence was not sufficient to establish that his claim was caused by the employment factor.

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his 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 limitation 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."[2] 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.[3]

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.[4] The medical evidence required to establish a causal relationship, generally, is rationalized

[2] *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[3] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

[4] *See Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

medical opinion evidence.[5] Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized medical 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 upon a complete factual and medical background of the claimant,[6] must be one of reasonable medical certainty[7] 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.

In the present case, the Office accepted the occurrence of the claimed incident but found that the medical evidence was insufficient to establish an injury resulting from the event.

Appellant submitted three reports from his treating physician, Dr. Morris. In the June 5, 2000 report, Dr. Morris indicated that appellant came in for a follow up of his carpal tunnel release and that the symptoms had resolved. However, he did not indicate a familiarity with appellant's employment history as he did not identify any employment factors alleged to have caused appellant's condition.[8] He also provided a diagnosis; however, he did not provide any explanation of causal relationship to his employment injury and his report was therefore of limited probative value.[9] In the second June 5, 2000 physician's report, Dr. Morris provided a diagnosis and indicated that appellant could return to modified duty. Again, he did not identify any employment factors alleged to have caused appellant's condition or provide any rationale.[10] In the August 9, 2000 report, Dr. Morris once again merely provided a diagnosis without explanation.[11] He did not explain how or why specific factors of appellant's employment would cause or aggravate his condition. The reports did not contain any discussion or opinion on causal relationship. Appellant has not submitted any rationalized medical evidence to establish that he sustained a condition causally related to factors of his employment. As appellant has not submitted the requisite medical evidence needed to establish his claim, he has failed to meet his burden of proof.[12]

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[5] The Board has held that, in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

[6] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[7] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[8] *See Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (where the Board held that medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

[9] *Arlonia B. Taylor*, 44 ECAB 591 (1992). Medical reports not containing rationale on causal relationship are entitled to little probative value.

[10] *Id.*

[11] *Id.*

[12] In his appeal, appellant provided additional evidence; however, the Board cannot consider new evidence on appeal. Appellant can submit the new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2)(1999); *see* 20 C.F.R. § 501.2(c).

For the above-noted reasons, appellant has not established that he sustained an injury in the performance of duty.

The decision of the Office of Workers' Compensation Programs dated August 23, 2000 is affirmed.

Dated, Washington, DC
August 17, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member