

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KAREN A. TOTTON and U.S. POSTAL SERVICE,
REDFORD BRANCH POST OFFICE, Redford, MI

*Docket No. 00-917; Submitted on the Record;
Issued February 1, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has met her burden of proof to establish that she sustained an employment-related occupational disease.

On March 25, 1999 appellant, then a 42-year-old letter carrier, filed an occupational disease claim alleging that as a result of carrying her mailbag she sustained impingement syndrome of the right shoulder, lateral epicondylitis of the right elbow and cubital tunnel syndrome of the right elbow. In an attached statement, she noted that she began having numbness in her right lower arm and two fingers in December 1998 and was diagnosed with tennis elbow. Appellant further noted that her right shoulder became painful on March 13, 1999 and described her job duties as carrying mail for five hours a day for five days a week. In support of her claim, she submitted disability certificates dated March 15, 18 and 23, 1999, all of which advised appellant to restrict use of her right arm.

Appellant also submitted a report dated March 24, 1999 in which Dr. Homer C. Linard, III, an osteopath, described appellant's symptoms, noted findings on examination and diagnosed impingement syndrome, right shoulder, lateral epicondylitis, right shoulder and cubital tunnel syndrome, right elbow. Dr. Linard also advised appellant to limit herself to one-handed work for at least a month.

By letter dated April 14, 1999, the Office of Workers' Compensation Programs requested further information from appellant, including a medical report from her physician showing the physician's opinion supported by medical explanations as to the relationship between appellant's diagnosed condition and her employment.

In response, appellant submitted a personal statement describing her symptoms, duplicates of certificates previously submitted and a certificate dated April 26, 1999 in which Dr. Linard advised appellant to use her left hand only for another month.

By decision dated June 28, 1999, the Office denied appellant's claim on the grounds that she did not establish fact of injury. The Office found that appellant did not submit rationalized medical evidence to support that her condition was employment related.

By letter dated July 25, 1999, appellant requested a review of the written record by a hearing representative of the Office.

In further support of her claim, appellant submitted additional medical evidence, including a report dated July 28, 1999, in which Dr. Linard advised of appellant's right shoulder symptoms had resolved with no sign of impingement. He further advised that the lateral epicondylitis also was markedly improved, but that she continued to have a positive Tinel's sign over the cubital tunnel and numbness along the ulnar nerve distribution. In an electromyography report dated September 2, 1999, Dr. David Simpson, an osteopathic neurologist, noted an abnormal examination with evidence of a severe right ulnar neuropathy at the elbow and reinnervation in a proximal distal fashion. Dr. Linard provided a report dated August 13, 1999, in which he reiterated his findings and conclusions. In a report dated September 7, 1999, Dr. Sharon Rothstein, a physician at the employing establishment, advised that appellant may work with the restrictions of no lifting with her right arm and no repetitive flexion or extension movements at the right elbow until further notice. In a disability slip dated October 6, 1999, Dr. Linard advised that appellant could not work until further notice.¹

By decision dated November 23, 1999, an Office hearing representative affirmed the prior decision and found that appellant did not submit any evidence containing a physician's opinion supporting a causal relationship between her employment and her condition. The hearing representative further noted that the additional evidence submitted by appellant after the June 28, 1999 Office decision does not offer any opinion as to causal relationship between appellant's condition and her employment.

The Board finds that appellant did not meet her burden of proof to establish that she sustained an employment-related injury.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim³ including the fact that the individual is an "employee of the United States" within the meaning of the Act,⁴ that the claim was timely filed within the applicable time limitation period of the Act,⁵ that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition

¹ The record indicates that appellant was planning to undergo surgery on September 28, 1999, but there is no evidence in the record that appellant actually underwent the surgery.

² 5 U.S.C. §§ 8101-8193.

³ See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.115.

⁴ See *James A. Lynch*, 32 ECAB 2116 (1980); see also 5 U.S.C. § 8101(1).

⁵ 5 U.S.C. § 8122.

for which compensation is claimed are causally related to the employment injury.⁶ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁷

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 the 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.⁸

Causal relationship is a medical issue⁹ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence that 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.¹⁰ Moreover, the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹¹

In this case, while appellant has submitted medical evidence establishing the presence of her right upper extremity conditions, she has not submitted a factual statement setting forth the employment factors which she believed caused or contributed to her condition, nor has she submitted any medical evidence establishing that employment factors caused or contributed to her condition. The medical evidence submitted merely addresses the existence of her condition, but contains no opinion regarding the cause of her condition. Appellant, therefore, has not established that she sustained an employment-related injury.

⁶ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ *Delores C. Ellyett*, 41 ECAB 922 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *Victor J. Woodhams*, *supra* note 7.

⁹ *Mary J. Briggs*, 37 ECAB 578 (1986).

¹⁰ *Victor J. Woodhams*, *supra* note 7; *see also* *Joe L. Wilkerson*, 47 ECAB 604 (1996); *Alberta S. Williamson*, 47 ECAB 569 (1996); *Kurt R. Ellis*, 47 ECAB 505 (1996); *Thomas L. Hogan*, 47 ECAB 323 (1996); *Charles E. Burke*, 47 ECAB 185 (1995).

¹¹ *Minnie L. Bryson*, 44 ECAB 713 (1995); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

The decisions of the Office of Workers' Compensation Programs dated November 23 and June 28, 1999 are hereby affirmed.

Dated, Washington, DC
February 1, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Valerie D. Evans-Harrell
Alternate Member