

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOYCE A. JOHNSON and U.S. POSTAL SERVICE,
POST OFFICE, Mayfield Heights, OH

*Docket No. 01-424; Submitted on the Record;
Issued July 24, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury while in the performance of duty.

The Board has duly reviewed the case record in this appeal and finds that appellant failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 filed within the applicable time limitations 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 is 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.

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

The medical evidence required to establish causal relationship, generally, is rationalized medical opinion 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.⁴

In this case, appellant filed an occupational disease claim on December 15, 1999, alleging that she developed pain in her right shoulder as a result of performing repeated overhead movements as a clerk, beginning September 28, 1999. The Office of Workers' Compensation Programs denied appellant's claim on February 28, 2000.

The medical evidence in support of appellant's claim consists of a May 3, 1999 office note from Dr. Audley M. Mackel, a Board-certified orthopedic surgeon, diagnosing lumbosacral sprain/strain and cervical sprain/strain and referring appellant for outpatient therapy; and a December 9, 1999 disability slip by Dr. Alexandra Berris stating that appellant was currently under her care for right shoulder impingement syndrome and unable to work from November 30 to December 20, 1999.

Neither the office note nor the disability slip provided a history of injury or addressed a causal relationship between appellant's diagnosed condition and the factors of employment to which appellant attributed her condition. Therefore, the office note and disability slip are insufficient to establish appellant's claim for an occupational disease. By letter dated January 21, 2000, the Office advised appellant of the evidence needed to establish her claim, but such evidence was not received. The Board finds that the evidence of record is insufficient to meet appellant's burden of proof.

⁴ *Id.*

The February 28, 2000 decision of the Office of Workers' Compensation Programs is affirmed.⁵

Dated, Washington, DC
July 24, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Priscilla Anne Schwab
Alternate Member

⁵ The Board notes that subsequent to the Office's February 28, 2000 decision appellant submitted additional evidence. This evidence was not previously considered by the Office prior to its decision of February 28, 2000 and cannot be considered by the Board. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(a). Appellant may resubmit this evidence to the Office, together with a formal request for reconsideration, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2).