U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHERRYL B. LYNN and DEPARTMENT OF THE NAVY
NAVAL AIR STATION, Lemoore, CA

Docket No. 00-1782 Submitted on the Record;
Issued May 22, 2001

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

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

On February 17, 2000 appellant, then a 54-year-old transportation assistant, filed a notice of occupational disease (Form CA-2) alleging that she developed soreness to the upper and lower left arm and the inside of the elbow area as a result of repetitive motion of working the same pile of work through four or five steps. She did not stop work.

On March 8, 2000 the Office of Workers' Compensation Programs advised appellant of the additional factual and medical evidence needed to establish her claim and requested that she submit such. Appellant was advised that submitting a rationalized statement from her physician addressing any causal relationship between her claimed injury and factors of her federal employment was crucial. She was allotted 30 days to submit the requested evidence.

On March 8, 2000 the Office requested additional factual information from the employing establishment.

In a March 10, 2000 authorization letter, Dr. Mark Saberman, a Board-certified otolaryngologist, indicated that authorization was approved for appellant to see Dr. Edward A. Lembert, a Board-certified orthopedic surgeon, for an office consultation.

On March 27, 2000 the employing establishment provided a copy of the position description which included: establishing and maintaining files and delivery receipts, messages and logs; posting information; editing supply and carrier transactions; research; claim processing and preparation of reports.

In an April 10, 2000 decision, the Office denied appellant's claim for compensation, as she did not establish the fact of injury.

The Board finds that appellant has not met her burden of proof to establish that she 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 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 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."[1] 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.[2]

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.[3] The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[4] 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,[5] must be one of reasonable medical certainty[6] 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.

The only medical documentation submitted from appellant was an authorization letter from Dr. Saberman approving a visit to Dr. Lembert. The letter did not contain any discussion

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

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

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

[4] 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.

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

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

or opinion. Appellant has not submitted any rationalized medical evidence to establish that she sustained a condition causally related to factors of her employment. As she has not submitted the requisite medical evidence needed to establish her claim, she has failed to meet her burden of proof.[7]

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

The decision of the Office of Workers' Compensation Programs dated April 10, 2000 is affirmed.

Dated, Washington, DC
May 22, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

[7] In her appeal, appellant indicated that she was awaiting results of her own medical examinations; however, the Board cannot consider new evidence on appeal. She 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).