

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELIAS G. GADAH and U.S. POSTAL SERVICE,
POST OFFICE, Sarasota, FL

*Docket No. 00-2006; Submitted on the Record;
Issued May 9, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

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

The Board has duly reviewed the case record in the present appeal and finds that appellant failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty, as alleged.

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 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

¹ 5 U.S.C. § 8101.

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

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

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.

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 a traumatic injury claim on August 12, 1999, which the Office of Workers' Compensation Programs determined was an occupational disease claim.⁵ Appellant alleged that he suffered pain in his right shoulder from bar coding mail on three different occasions. The Office denied appellant's claim on December 13, 1999.

The medical evidence in support of appellant's claim consists of August 12, 1999 notes by Dr. Debra Federer, Board-certified in emergency and internal medicine, with the Columbia Doctors Hospital emergency room; an August 12, 1999 duty status report completed by Dr. Federer; an August 12, 1999 authorization for examination and/or treatment, Form CA-16 completed by Dr. Federer; and August 23, 1999 office notes by Dr. E. Jeff Kennedy, a Board-certified orthopedic surgeon.

In the August 12, 1999 notes, Dr. Federer failed to provide a history of injury, diagnosed acute right shoulder pain, ruled out tendinitis and bursitis and failed to address the issue of causal relationship between the diagnosed condition and the factors of employment to which appellant attributed his condition. Therefore, the August 12, 1999 notes are insufficient to establish appellant's occupational disease claim.

On the August 12, 1999 duty status report, Dr. Federer diagnosed tendinitis, ruled out bursitis and checked "yes" that the history of injury given on the form corresponds to that given to her by appellant. She failed to address a causal relationship between the diagnosed condition and the factors of employment identified by appellant. The August 12, 1999 duty status report is insufficient to establish appellant's claim.

On the August 12, 1999 authorization for examination and/or treatment, Form CA-16, Dr. Federer diagnosed tendinitis, ruled out bursitis and checked "yes" to the question that she believed that appellant's condition was caused or aggravated by the employment activity

⁴ *Id.*

⁵ The Office notified appellant that this was an occupational disease claim not a traumatic injury claim by letter dated October 27, 1999. Appellant later advised that he did not receive the Office's letter and that the address was incorrect. On January 20, 2000 the Office notified appellant that the address error was being corrected and explained his appeal options including requesting a waiver. The record supports that appellant chose to file an appeal with the Board.

described. She failed to provide supportive rationale to support her opinion.⁶ The Form CA-16 is insufficient to establish appellant's claim.⁷ The Board finds that the evidence of record is insufficient to meet appellant's burden of proof.

The decision of the Office of Workers' Compensation Programs dated December 13, 1999 is affirmed.⁸

Dated, Washington, DC
May 9, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ *Ruth S. Johnson*, 46 ECAB 237 (1994) (the Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship. Appellant's burden included the necessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound medical reasoning).

⁷ Where an employing agency properly executes a Form CA-16 which authorizes medical treatment or a medical examination as a result of an employee's claim of sustaining an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See *Elaine K. Kreymborg*, 41 ECAB 256 (1989).

⁸ The Board notes that subsequent to the Office's December 13, 1999 decision and on appeal appellant submitted additional evidence. As this evidence was not previously considered by the Office prior to its decision of December 13, 1999, the evidence represents new evidence which 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).