

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID J. AYERS and U.S. POSTAL SERVICE,
POST OFFICE, New York, NY

*Docket No. 00-2735; Submitted on the Record;
Issued September 4, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he developed an elbow condition in the performance of duty.

On April 11, 2000 appellant, then a 53-year-old letter carrier, filed a claim alleging that his right elbow condition was employment related. Appellant stated that he first became aware of his elbow condition on March 7, 2000, while lifting and unloading mail from transporters. Appellant did not stop work but was placed on light duty.

Accompanying appellant's claim were two notes from Dr. Ronald Chase, a family practitioner, dated March 9 and April 6, 2000; a note dated March 9, 2000 indicating appellant was fitted for a brace for his right arm; a duty status report dated April 11, 2000 prepared by Dr. Susie Chow, a fitness-for-duty physician; and a narrative statement dated April 11, 2000. Dr. Chase's note dated March 9, 2000 indicated appellant was to return to light duty with no repetitive activities related to lifting of the right arm. In his April 6, 2000 note, Dr. Chase diagnosed appellant with right lateral epicondylitis due to repetitive activities at work. He indicated appellant was undergoing physiotherapy and that his prognosis was guarded. Dr. Chase noted appellant could return to work on April 24, 2000. The duty status report noted appellant's right elbow condition developed as a result of lifting mail over a period of time. Dr. Chow diagnosed appellant with right lateral epicondylitis. She indicated clinical findings of good range of motion and no swelling. Dr. Chow noted appellant could return to light duty for a two-week period with no repetitive motion or lifting with the right arm. Appellant's narrative statement indicated that he injured his elbow while performing his job duties. He noted that he did not immediately report the injury to his supervisors because he was uncertain as to how the

condition developed. Appellant subsequently sought medical treatment and his doctor determined he developed inflammation of his muscular joint due to repetitive motion.¹

In a letter dated June 2, 2000, the Office of Workers' Compensation Programs advised appellant's physician, Dr. Chase, of the type of medical evidence needed to establish appellant's claim and requested that he submit such evidence. The Office also requested the physician's reasoned opinion addressing appellant's current condition and the relationship of his current condition and specific employment factors.

In response to the Office's request, Dr. Chase's office submitted a statement dated June 20, 2000 indicating the doctor would be on vacation until July 3, 2000.

On July 10, 2000 the Office issued a decision and denied appellant's claim for compensation under the Federal Employees' Compensation Act.² The Office found that the medical evidence was not sufficient to establish that his medical condition was caused by employment factors.

The Board finds that appellant has not met his burden of proof in establishing that he developed an elbow condition in the performance of duty.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or 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 timely filed within the applicable time limitation period of the Act, that the 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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) 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

¹ The employing establishment submitted a letter dated May 2, 2000 from Dr. Irene M. Chow, a fitness-for-duty physician, in controversion to appellant's claim. Dr. Chow noted that appellant indicated on the Form CA-2 that he became aware of his disease/illness on March 7, 2000, however, appellant was seen in the postal medical unit on March 17, 2000 and indicated that his elbow condition began one month previously and was unsure as to how it developed. She indicated that the claim was being controverted because appellant gave conflicting dates as to when the right elbow condition began and was uncertain as to how the condition developed.

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is generally 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.⁵

However, appellant has not submitted sufficient medical evidence to support that a condition has been diagnosed in connection with the employment factor and that any alleged elbow injury is causally related to the employment factors or conditions. Appellant did not submit any medical report from an attending physician addressing how specific employment factors may have caused or aggravated his shoulder condition. The only medical reports submitted by appellant were progress notes from Dr. Chase dated March 9 and April 6, 2000. Dr. Chase's report dated March 9, 2000 indicated appellant could return to light duty with no repetitive activities relating to lifting of the right arm. Dr. Chase's April 6, 2000 report diagnosed appellant with "right lateral epicondylitis due to repetitive activities at work." Although, Dr. Chase's opinion somewhat supports causal relationship in a conclusory statement he provided no medical reasoning or rationale to support such statement. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.⁶

Additionally, in none of Dr. Chase's reports does he note the employment factors or activities believed to have caused or contributed to appellant's right elbow condition.⁷ Dr. Chase's reports do not include a rationalized opinion regarding the causal relationship between appellant's right elbow condition and the factors of employment believed to have caused or contributed to such condition.⁸ Therefore, these reports are insufficient to meet appellant's burden of proof.

On June 2, 2000 the Office advised Dr. Chase of the type of medical evidence needed to establish appellant's claim. Dr. Chase did not submit a medical report addressing how specific employment factors may have caused or aggravated appellant's elbow condition.

The remainder of the medical evidence, including the duty status report prepared by Dr. Chow, failed to provide an opinion on the causal relationship between this incident and

⁵ *Id.*

⁶ See *Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

⁷ See *Cowan Mullins*, 8 ECAB 155, 158 (1955) (where the Board held that a medical opinion based on an incomplete history was insufficient to establish causal relationship).

⁸ See *Theron J. Barham*, *supra* note 6.

appellant's diagnosed condition. For this reason, this evidence is not sufficient to meet appellant's burden of proof.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁹ Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence, and the Office therefore properly denied appellant's claim for compensation.

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

Dated, Washington, DC
September 4, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

⁹ See *Victor J. Woodhams*, *supra* note 4.