

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 December 26, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, MICHAEL E. GROOM,
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 first became aware of his condition on March 7, 2000 while lifting and unloading mail from transporters. Appellant did not stop work and 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. Dr. Chase's March 9, 2000 note recommended appellant return to light duty with no repetitive activities related to lifting of the right arm. On April 6, 2000 Dr. Chase diagnosed right lateral epicondylitis due to repetitive activities at work. He indicated that appellant was undergoing physiotherapy and that his prognosis was guarded. The physician noted that appellant could return to work on April 24, 2000. A duty status report noted that appellant's right elbow condition developed as a result of lifting mail over a period of time. Dr. Susie Chow, a fitness-for-duty physician, diagnosed appellant with right lateral epicondylitis. She noted that appellant could return to light duty for a two-week period with no repetitive motion or lifting with the right arm.

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. 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.

Dr. Chase's office submitted a statement dated June 20, 2000, indicating that the physician would be on vacation until July 3, 2000.

On July 10, 2000 the Office issued a decision that denied appellant's claim for compensation. 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 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 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.¹ 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.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) 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 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.³

In this case, the Office apparently has not accepted that the lifting and unloading incident occurred as alleged on March 7, 2000. However, there is no evidence disputing that appellant was lifting and unloading mail on or about March 7, 2000. All contemporaneous evidence supports that this incident occurred as alleged. Consequently, the Board finds that the lifting and unloading incident occurred as alleged.

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

¹ *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

² *Victor J. Woodhams*, 41 ECAB 345 (1989).

³ *Id.*

elbow injury is causally related to the employment factors or conditions. Appellant did not submit a 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 that 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 medical opinions on causal relationship unsupported by rationale have little probative value.⁴

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.⁵ 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.⁶ 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 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.⁷ 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.⁸

⁴ See *George Randolph Taylor*, 6 ECAB 986 (1954) (where the Board held that medical conclusions unsupported by rationale are of little probative value).

⁵ See *Leonard J. O'Keefe*, 14 ECAB 42, 28 (1962) (where the Board held that medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value).

⁶ See *George Randolph Taylor*, *supra* note 4.

⁷ See *Victor J. Woodhams*, *supra* note 2.

⁸ This decision does not preclude appellant from submitting additional medical evidence in support of a request for reconsideration before the Office.

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

Dated, Washington, DC
December 26, 2002

Alec J. Koromilas
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member