

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HOWARD L. KINDER and U.S. POSTAL SERVICE,
POST OFFICE, Springfield, MA

*Docket No. 02-984; Submitted on the Record;
Issued December 24, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether appellant met his burden of proof to establish that his left rotator cuff tear is causally related to factors of employment.

On September 5, 2000 appellant, then a 64-year-old mailhandler/power equipment operator, filed an occupational disease claim, alleging that factors of employment caused a left torn rotator cuff. He had stopped work on August 23, 2000. In an attached statement, he stated that the work duties of pushing, pulling and lifting caused the condition, and further noted that a magnetic resonance imaging scan in April 2000 revealed the rotator cuff tear. In support of his claim, appellant submitted a September 5, 2000 report from Dr. Lester Sheehan, a Board-certified orthopedic surgeon, and a September 29, 2000 report from Dr. R.H. Brody, a Board-certified internist.

By letter dated October 31, 2000, the Office of Workers' Compensation Programs informed appellant that the medical evidence submitted to date was insufficient to establish his claim and advised him that he needed to submit a comprehensive medical report explaining how specific employment activities caused or contributed to his condition. In response, appellant submitted a letter dated November 26, 2000 in which he further described his work duties and advised that Dr. Sheehan's report was sufficient to establish causal relationship.

In a decision dated January 17, 2001, the Office denied the claim on the grounds that the medical evidence of record was insufficient to establish causal relationship. On February 14, 2001 appellant requested a hearing that was held on August 28, 2001, at which time he testified regarding his work duties. He was given an additional 30 days in which to submit evidence, and on October 30, 2001 faxed a one-page document to the Office. By decision dated November 13, 2001 and finalized November 14, 2001, an Office hearing representative affirmed the prior decision, finding that appellant failed to submit medical evidence establishing that employment factors caused his shoulder condition. The instant appeal follows.

The Board finds that appellant failed to establish that his left rotator cuff tear was caused by employment factors.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim² including the fact that the individual is an "employee of the United States" within the meaning of the Act,³ that the claim was timely filed within the applicable time limitation period of the Act,⁴ 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.⁵ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶ However, an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong and persuasive evidence.⁷

Causal relationship is a medical issue,⁸ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical 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 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.⁹ Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰

The medical evidence in the instant case includes reports from appellant's treating Board-certified orthopedic surgeon, Dr. Sheehan, who provided a number of treatment notes dating from January 3, 2000 in which he noted appellant's complaints of shoulder pain. A May 20, 2000 magnetic resonance imaging scan of the left shoulder demonstrated a complete thickness

¹ 5 U.S.C. §§ 8101-8193.

² See *Daniel R. Hickman*, 34 ECAB 1220 (1983).

³ See *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

⁵ See *Melinda C. Epperly*, 45 ECAB 196 (1993).

⁶ See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ See *Robert A. Gregory*, 40 ECAB 478 (1989).

⁸ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁹ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, *supra* note 6.

¹⁰ *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

tear of the anterior lateral aspect of the supraspinatus tendon. On August 23, 2000 Dr. Sheehan performed surgical repair. In none of the above reports, however, did he provide a cause of appellant's condition. Dr. Sheehan also submitted a September 5, 2000 report in which he stated that appellant developed progressive pain in his left shoulder with pushing and pulling of heavy objects at work and advised that appellant could return to light duty in another few weeks. In a September 26, 2000 report, Dr. Sheehan advised that appellant could return to work in seven days.

In the instant case, the Board finds that Dr. Sheehan's reports are insufficient to meet appellant's burden of proof. While Dr. Sheehan provided a brief explanation that appellant developed progressive pain in his left shoulder with pushing and pulling of heavy objects at work, he did not explain with sufficient rationale how specific employment factors caused appellant's shoulder condition.

The decision of the Office of Workers' Compensation Programs dated November 13, 2001 and finalized November 14, 2001 is hereby affirmed.

Dated, Washington, DC
December 24, 2002

Alec J. Koromilas
Member

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member