

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SUJAMOL JACOB and U.S. POSTAL SERVICE,
POST OFFICE, Freeport, NY

*Docket No. 02-1165; Submitted on the Record;
Issued December 17, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained an injury on August 10, 2001 while in the performance of duty.

On August 14, 2001 appellant, then a 34-year-old clerk, filed a claim alleging that on August 10, 2001 she sustained an injury to her legs while in the performance of duty.

On August 24, 2001 the Office of Workers' Compensation Programs advised appellant regarding the kind of evidence she needed to process her claim. The Office advised appellant that a physician's opinion supported by medical explanation as to how her reported work incident caused or aggravated the claimed injury was "crucial to [her] claim."

In a report dated August 16, 2001, Dr. Harold T. Joseph stated that he treated appellant that day for a right shoulder strain. A nurse practitioner noted in an August 27, 2001 note that appellant had been treated for several conditions and that she was restricted from heavy lifting. In a report dated September 6, 2001, a doctor stated that appellant was out of work from that date until evaluated by an orthopedic doctor or hematologist. In a report dated September 14, 2001, Dr. Patricia E. Webley-Bethune stated that appellant had been under her care since September 1, 2001 and that she was not able to return to work until evaluated. In a report dated September 14, 2001, Dr. Joseph stated that appellant had been under his care since September 1, 2001 and that she was released to return to work on September 7, 2001.

By decision dated September 25, 2001, the Office denied appellant's claim on the grounds that appellant submitted no evidence to establish that she sustained an injury in the performance of duty.

The Board finds that appellant has not established that she sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of 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 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 compensation claim regardless of whether the claim is predicated upon a traumatic injury or an 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 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 a causal relationship 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

Appellant did not submit sufficient medical evidence to establish that she sustained an injury in the performance of duty. She submitted several medical reports dated between August 16 and September 14, 2001, none of which referred to a work-related incident or injury. Indeed, two reports made no medical finding of any condition. The reports, therefore, are of limited probative value regarding whether appellant sustained an employment-related injury in that they do not contain an opinion on causal relationship.⁵ Appellant also submitted a report from a nurse practitioner. These reports have no probative value because they do not constitute medical evidence within the meaning of the Act.⁶ Appellant did not submit a rationalized medical report relating her claimed condition to employment factors.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

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

⁵ *See Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

⁶ *See Joseph N. Fassi*, 42 ECAB 677, 679 (1991).

The September 25, 2001 decision of the Office of Workers' Compensation Programs is affirmed.⁷

Dated, Washington, DC
December 17, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

⁷ The Board notes that this case record contains evidence which was submitted subsequent to the Office's September 25, 2001 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 n. 2 (1952).