

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MELONIE SELLERS and U.S. POSTAL SERVICE,  
POST OFFICE, Salt Lake City, UT

*Docket No. 02-2199; Submitted on the Record;  
Issued December 18, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,  
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a left wrist and hand injury in the performance of duty.

On July 24, 2001 appellant, then a 45-year-old distribution/window clerk, filed a claim alleging that she sustained injury to her left wrist and hand. Appellant indicated that, due to a right hand injury, she had to rely on her left hand to perform repetitive work functions such as writing, lifting letters and packages.<sup>1</sup> By decision dated September 24, 2001, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained a left wrist or hand injury in the performance of duty. By decision dated November 6, 2001, the Office affirmed its September 24, 2001 decision.

The Board finds that appellant did not meet her burden of proof to establish that she sustained a left wrist and hand injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> 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.<sup>3</sup> These are the essential

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<sup>1</sup> Appellant indicated that she had surgery on her right wrist in early July 2001.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

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.<sup>5</sup>

Appellant did not submit sufficient medical evidence to establish that she sustained a left wrist or hand injury in the performance of duty.

Appellant submitted a September 6, 2001 report, in which Dr. J. Eric Vanderhooft, an attending Board-certified orthopedic surgeon, indicated that she reported that "her left hand started hurting when she had to do restricted duty work with the hand." Dr. Vanderhooft diagnosed "dorsal left wrist pain" and indicated that he was not sure whether appellant had an arthritis process or a subluxation of her tendon. He noted that he believed that appellant's condition was "secondary to her previous injury." This report, however, is of limited probative value on the relevant issue of the present case in that it does not contain a clear opinion that appellant's left wrist or hand condition was due to the implicated employment factors.<sup>6</sup> Moreover, Dr. Vanderhooft did not provide a diagnosis of appellant's left wrist or hand condition; he merely reported that she had pain symptoms in the dorsal region.<sup>7</sup> In a report dated August 28, 2001, Dr. Vanderhooft discussed appellant's right wrist condition and diagnosed "persistent wrist difficulties."<sup>8</sup> However, this report would not be relevant to appellant's claim of an employment-related left wrist and hand condition. Appellant submitted a functional

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<sup>4</sup> See *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

<sup>6</sup> 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). Dr. Vanderhooft also did not specify what "previous injury" he referred to in his report.

<sup>7</sup> Nor did he provide a detailed description of the accepted employment factors.

<sup>8</sup> The report does not specifically identify the wrist to which it refers, but the content and context of the report shows that it refers to the right wrist.

capacity report completed by a physical therapist. However, physical therapists are not physicians under the Act and are not qualified to provide the necessary medical evidence to meet appellant's burden of proof.<sup>9</sup>

For these reasons, appellant did not meet her burden of proof to establish that she sustained a left wrist and hand injury in the performance of duty.

The November 6 and September 24, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.<sup>10</sup>

Dated, Washington, DC  
December 18, 2002

Michael J. Walsh  
Chairman

Alec J. Koromilas  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>9</sup> *Jane A. White*, 34 ECAB 515, 518-19 (1983). Moreover, the report does not contain an opinion on the cause of appellant's left wrist and hand condition.

<sup>10</sup> Appellant submitted additional evidence after the Office's November 6, 2001 decision, but the Board cannot consider such evidence for the first time on appeal. (R 3-15, 17-18) *See* 20 C.F.R. § 501.2(c).