

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ERIN GORMAN and U.S. POSTAL SERVICE,
POST OFFICE, Hackensack, NJ

*Docket No. 01-1143; Submitted on the Record;
Issued January 2, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant sustained an injury in the performance of duty, as alleged.

On September 19, 2000 appellant, then a 35-year-old window clerk, filed an occupational disease claim, alleging that in the spring of 2000 she suffered gradual pain increasing throughout the year.¹ The employing establishment stated that appellant did not stop work.

Accompanying the claim form was a September 19, 2000 duty status report, Form CA-17, by Dr. George Dixon, a Board-certified internist, and an undated authorization for medical attention form on which Dr. Dixon stated that appellant must avoid use of her right hand/wrist.

By letters dated October 10, 2000 to appellant and the employing establishment, the Office explained that appellant's claim was being treated as an occupational disease claim and listed the additional detailed factual and medical evidence needed.

On October 19, 2000 the record was supplemented with a September 25, 2000 duty status report by Dr. Dixon diagnosing tendinitis; and an October 11, 2000 duty status report by an orthopedist whose name is illegible.

On November 22, 2000 the Office received November 8, 2000 office notes by Dr. Dixon of a follow-up visit diagnosing resolving extensor tendinitis right wrist.

On December 1, 2000 the Office received Dr. Dixon's October 11, 2000 office notes stating an x-ray of the wrist and elbow are within normal limits and diagnosing extensor tendinitis right wrist.

By decision dated December 12, 2000, the Office denied appellant's claim finding that the factual evidence of record failed to identify any employment factors alleged to have caused or contributed to the presence of a condition. The Office also found that the lack of vital factual

¹ Appellant filed a Form CA-1 for a traumatic injury; however, the Office of Workers' Compensation Programs determine, based on the information provided, that the claim was an occupational disease claim.

information affected the probative value of the medical evidence of record as medical evidence must be based on a full and accurate factual background.

The Board finds that appellant has failed to establish that she sustained an injury in the performance of duty as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act² 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 filed within the applicable time limitations 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 is 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 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) 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 claimant.

The medical evidence required to establish causal relationship, generally, 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.⁵

In this case appellant failed to identify specific factors of her employment to which she attributed her tendinitis. She provided some medical evidence which indicated the presence of tendinitis of the right wrist, but none of the evidence provided a rationalized medical opinion based on an accurate factual and medical background relating her tendinitis to any factors of employment identified by her. In October 11 and November 8, 2000 office notes, Dr. Dixon noted that appellant had difficulty using her arm at work for keyboarding and for daily living, diagnosed right wrist tendinitis, but failed to address a causal relationship between any factors of employment identified by appellant and a diagnosed condition. On a September 19, 2000 duty

² 5 U.S.C. § 8101.

³ *Joe Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

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

⁵ *Id.*

status report Dr. Dixon diagnosed sprained right wrist and checked “yes” that the history of injury given by appellant corresponds with that described on the form; however, the history was stated a gradual pain increasing throughout the year. On a September 25, 2000 duty status report Dr. Dixon diagnosed tendinitis of the right and left wrist and checked “yes” regarding history of injury as on the September 19, 2000 report.

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 her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence. By letter dated October 10, 2000, the Office advised appellant of the specific evidence needed to establish her claim, but such evidence was not submitted. Therefore, the Office properly denied appellant’s claim for compensation.

The December 12, 2000 decision of the Office of Workers’ Compensation Programs is affirmed.⁶

Dated, Washington, DC
January 2, 2002

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

⁶ The Board notes that subsequent to the issuance of the Office’s decision and on appeal, appellant submitted evidence which was not previously before the Office. As this evidence was not previously submitted to the Office for consideration prior to its decision of December 12, 2000, it represents new evidence which cannot be considered by the Board. The Board’s jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may resubmit this evidence and any additional factual and medical evidence she may have, directly to the Office, with a formal request for reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b).