

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LUIS E. VARGAS and U.S. POSTAL SERVICE,  
POST OFFICE, Bayonne, NJ

*Docket No. 02-758; Submitted on the Record;  
Issued October 28, 2002*

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DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury to his right index finger in the performance of duty.

On February 6, 2001 appellant, then a 48-year-old letter carrier, filed a claim alleging that on December 10, 2000, he was folding magazines and injured his index finger. He did not stop work.

Appellant submitted a note from Dr. William Oppenheim, a Board-certified orthopedist, dated December 15, 2000. Dr. Oppenheim noted that appellant injured his right index finger when folding a magazine. He noted that appellant experienced severe pain over the proximal interphalangeal joint level which had resolved. Dr. Oppenheim indicated that appellant's finger locked for one day and then relaxed. He noted no evidence of swelling but slight tenderness over the joint. Dr. Oppenheim indicated that appellant was treated for an unrelated thumb injury the month before this visit.

In a letter dated February 27, 2001, the Office of Workers' Compensation Programs requested that Dr. Oppenheim submit a physician's reasoned opinion addressing the relationship of appellant's claimed condition and specific employment factors.

In a decision dated April 13, 2001, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his condition was caused by the incident of December 10, 2000.

In a letter dated May 9, 2001, appellant requested a hearing before an Office hearing representative. The hearing was set for September 18, 2001. Appellant did not appear but his representative indicated that he desired a review of the written record.

In a decision dated November 26, 2001, the hearing representative denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his condition was caused by the December 10, 2000 incident.

The Board finds that the appellant has failed to establish that he sustained an injury in the performance of duty, causally related to factors of his federal employment.

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 filed within the applicable time limitation 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>1</sup> 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.<sup>2</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another.

The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>3</sup>

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>4</sup>

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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>5</sup>

In this case, it is not disputed that appellant was folding a magazine on December 10, 2000. However, the medical evidence is insufficient to establish that the incident caused an injury to his right index finger. The only medical evidence submitted in support of appellant's case was a report from Dr. Oppenheim dated December 15, 2000. Dr. Oppenheim noted appellant injured his right index finger when folding a magazine and indicated he

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<sup>1</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>2</sup> *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

<sup>3</sup> *Elaine Pendleton*, *supra* note 1.

<sup>4</sup> *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>5</sup> *James Mack*, 43 ECAB 321 (1991).

experienced severe pain over the proximal interphalangeal joint level which had resolved. This is the only note which makes reference to a date of injury; however, the note does not diagnose a work-related injury. Additionally, this note does not contain a specific and rationalized opinion as to the causal relationship between the employment incident and his right index finger condition.<sup>6</sup> The person seeking compensation benefits has the burden of proof to establish the essential elements of the claim. Appellant has failed to do this. His own unsupported assertion of an employment relationship is not medical proof of the fact. In a case such as this, proof must include supporting rationalized opinion of qualified medical experts, based on complete and accurate factual and medical backgrounds, establishing that the implicated incidents caused or materially adversely affected the ailments producing the work disablement.<sup>7</sup>

The Office specifically requested that Dr. Oppenheim submit a rationalized opinion as to the causal relationship between the employment incident and his right index finger condition. No additional medical evidence was submitted by appellant or Dr. Oppenheim prior to the Office's decision. The Board finds that appellant has not met his burden of proof.

The decisions of the Office of Workers' Compensation Programs dated November 26 and April 13, 2001 are hereby affirmed.

Dated, Washington, DC  
October 28, 2002

Alec J. Koromilas  
Member

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>6</sup> See *Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

<sup>7</sup> See *Margaret A. Donnelly*, 15 ECAB 40 (1963).