

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEVEN RABERN and DEPARTMENT OF JUSTICE,
FEDERAL CORRECTIONAL INSTITUTION, Cumberland, MD

*Docket No. 02-1363; Submitted on the Record;
Issued October 4, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof in establishing that he sustained a right shoulder injury in the performance of duty.

On January 3, 2001 appellant, then a 56-year-old prison supervisor, filed a notice of traumatic injury claiming that on December 21, 2000, he fell and pulled a muscle in his right shoulder at work. Appellant submitted physical therapy notes but did not submit a medical report establishing a diagnosis.

By letter dated October 5, 2001, the Office of Workers' Compensation Programs informed appellant that he must submit additional medical evidence in support of his claim. The Office stated that the record would remain open for 30 days to afford him the opportunity to submit medical evidence and if the information was not received within 30 days that his claim would be denied.

By decision dated November 29, 2001, the Office denied appellant's claim, as he did not submit any medical evidence to establish fact of injury.

The Board finds that appellant did not meet his burden of proof in establishing that he 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 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 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

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁴ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁵

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.⁶

In this case, appellant alleges that he did not receive the Office’s October 5, 2001 letter informing him to send additional medical evidence because the letter was sent to his old address. He explained that when he retired from his employing establishment in August 2001, he was not aware that his claim was still pending. Appellant stated that since his claim had been filed in December 2000 and he had not received any correspondence regarding the claim, he assumed that the claim had been accepted or resolved. Although he contends that he did not receive the October 5, 2001 letter from the Office because he had moved, the record does not contain any change of address information after his claim was filed and the letter was sent to appellant’s last address of record. The Board has found that it is appellant’s duty to inform the Office of a change of address.⁷ He has submitted no evidence to support his contention that the Office was made aware of the change prior to the November 29, 2001 decision.

As appellant failed to inform the Office of his change of address and did not submit any medical evidence to support his claim, appellant did not meet his burden of proof.

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

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

⁵ *Id.* For a definition of the term “injury,” see 20 C.F.R. § 10.5(a)(14).

⁶ *Supra* note 3.

⁷ *Robin Melinda Taylor*, Docket No. 95-1890 (issued July 11, 1997).

The November 29, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 4, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member