

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FANNIE P. NIX and U.S. POSTAL SERVICE
POST OFFICE, Duluth, GA

*Docket No.02-665; Submitted on the Record;
Issued September 12, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
WILLIE T.C. THOMAS

The issue is whether appellant has met her burden of proof to establish that she sustained an injury in the performance of duty.

On October 6, 2001 appellant, then a 61-year-old mail processing clerk, filed a notice of occupational disease (Form CA-2), alleging that she developed soreness in her wrists¹ as a result of repetitive motion of working the flat sorter machine. Appellant stopped work on September 28, 2001 and returned on October 6, 2001.

In a September 28, 2001 statement, appellant indicated that she had worked for the employing establishment since June 17, 2000 on the flat sorter machine. She described her duties, which included setting, feeding, standing, loading, putting mail in trays or on the ledge and stated that she worked until the end of her tour on September 27, 2001.

In an October 7, 2001 statement, the employing establishment noted appellant's duties and offered that the first time they were aware of an injury to appellant's right hand was September 28, 2001.

In a September 28, 2001 work-related injury form, Dr. E. Scott Middlebrooks, a Board-certified orthopedic surgeon, noted that it was an initial examination and diagnosed a questionable fracture of the wrist. He indicated that appellant was unable to return to work.

In an October 5, 2001 report, Dr. Middlebrooks indicated that appellant was seen in his office on October 5, 2001 and could return to work on October 6, 2001. He indicated that appellant had restrictions of no lifting over 10 pounds for the right arm.

¹ The description on the form was unclear, however, in her statement, she referred to her wrists.

In an October 16, 2001 report, Dr. Middlebrooks indicated that appellant was seen in his office on October 16, 2001 and could return to work on October 16, 2001. He indicated that appellant had restrictions of no lifting over 10 pounds for the right arm

In a letter dated October 22, 2001, the Office of Workers' Compensation Programs advised appellant of the additional factual and medical evidence needed to establish her claim and requested that she submit such. Appellant was advised that submitting a rationalized statement from her physician addressing any causal relationship between her claimed injury and factors of her federal employment was crucial. She was allotted 30 days to submit the requested evidence.

On November 1, 2001 the Office received appellant's responses to the October 22, 2001 request for additional information. She stated that she only had one job and no hobbies. Appellant indicated that, on the morning of September 27, 2001, she went to work and worked on her machines as usual. She noticed that the next morning, her right hand and wrist were swollen.

In an October 26, 2001 certificate, Dr. Stephen M. McCollam, a Board-certified orthopedic surgeon, indicated that appellant could return to light duty and advised no lifting over five pounds and no repetitive work with the right hand.

In a decision dated December 6, 2001, the Office denied appellant's claim for compensation as she did not establish the fact of injury.

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty.

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."² 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.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

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

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

diagnosed condition is causally related to the employment factors identified by the claimant.⁴ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.⁵ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized medical 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 upon a complete factual and medical background of the claimant,⁶ must be one of reasonable medical certainty⁷ 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.

In the present case, the Office accepted the occurrence of the alleged factors of employment but found that the medical evidence was insufficient to establish an injury.

The medical documentation submitted from appellant consisted of work restriction forms dated September 28, October 5 and 16, 2001. Dr. Middlebrooks opined that appellant was initially unable to work and later could return with restrictions. These reports did not contain any firm diagnosis, discussion or opinion relating appellant's condition to her employment. Dr. McCollam in his October 26, 2001 disability certificate, merely advised that appellant could return to light duty. He did not provide any diagnosis or opinion or relate appellant's condition to her employment. In order to establish causal relationship, a physician's report must present rationalized medical opinion evidence, based on a complete factual and medical background.⁸ Rationalized medical evidence is evidence, which relates a work incident or factors of employment to a claimant's condition, with stated reasons of a physician.⁹ Appellant has not submitted any rationalized medical evidence to establish that she sustained a condition causally related to factors of her employment. As she has not submitted the requisite medical evidence needed to establish her claim, she has failed to meet her burden of proof.¹⁰

For the above-noted reasons, appellant has not established that she sustained an injury in the performance of duty.

⁴ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁵ The Board has held that, in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed; see *Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁷ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁸ See *Kathryn Haggerty*, 45 ECAB 383 (1994).

⁹ See *Gary L. Fowler*, 45 ECAB 365 (1994)

¹⁰ In her appeal, appellant provided additional medical evidence, however, the Board cannot consider new evidence on appeal. Appellant can submit the new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. 10.606(b)(2) (1999); see 20 C.F.R. §501.2(c).

The decision of the Office of Workers' Compensation Programs dated December 6, 2001 is affirmed.

Dated, Washington, DC
September 12, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member