United States Department of Labor
Employees' Compensation Appeals Board

PAMELA M. PICARD, Appellant	)	
and	)	**Docket No. 03-2216**
	)	**Issued: December 12, 2003**
U.S. POSTAL SERVICE, Corpus Christi, TX, Employer	)	

Appearances:
Pamela M. Picard, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On September 9, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated August 22, 2003. Pursuant to 20 C.F.R. § 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish that she sustained a work-related injury.

FACTUAL HISTORY

On June 26, 2003 appellant, then a 46-year-old letter carrier, filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that she injured her right wrist while lifting a flats rack into a truck. In support of her claim, appellant submitted a June 26, 2003 medical report from Concentra Medical Services, from Caroline Kuepper, a physicians' assistant,

that included a diagnosis of right wrist tenosynovitis resulting from lifting a container at work. The record also contains several other reports from Ms. Kuepper. In addition, the record contains duty status reports (Form CA-17) that provide an illegible signature with no indication as to who prepared the reports.

In a July 10, 2003 letter to appellant, the Office notified her that more information about her claim was needed, including a medical report from a physician. In a July 25, 2003 response, appellant wrote that she was confused by the letter and referred to Ms. Kuepper as "doctor." In a July 31, 2003 report, Ms. Kuepper indicated that appellant had suffered a setback in her recovery while working and she had developed intense burning in her right thumb abductors and the lateral wrist.

In an August 23, 2003 decision, the Office denied appellant's claim finding that the incident occurred as alleged but the medical evidence was insufficient to establish a work-related disability.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing that he or she sustained an injury while in the performance of duty.[2] 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. The second component is whether the employment incident caused a personal injury, and generally this can be established only by medical evidence.[3]

The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury 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 compensable 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.[4]

[1] 5 U.S.C. §§ 8101-8193.

[2] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

[3] *See John J. Carlone*, 41 ECAB 354, 357 (1989).

[4] *See Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

ANALYSIS

In the present case, the Office has accepted that the incident occurred as appellant alleged. However, appellant has not submitted the required medical evidence to establish that a medical condition arose from the incident. Section 8102(2) of the Act provides, in relevant part, "'physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law."[5] Reports from a physician's assistant are not considered medical evidence as a physician's assistant is not considered a physician under the Act.[6]

The Board also notes that the CA-17 form reports of record are not considered probative medical evidence because it is not clear whether a physician prepared the report. The signature is illegible and no identification is contained in the report. In a July 10, 2003 letter, appellant was notified of the necessity of providing medical evidence from a physician to support her claim. However, appellant failed to submit the necessary report from a physician as defined by the Act.

CONCLUSION

Absent a rationalized medical report from a physician, appellant has not met her burden of proof to establish she sustained an injury in the performance of her federal duties.

[5] 5 U.S.C. § 8101(2).

[6] *Ricky S. Storms*, 52 ECAB 349, 353 (2001).

ORDER

IT IS HEREBY ORDERED THAT the August 23, 2003 decision by the Office of Workers' Compensation Programs is affirmed.

Issued: December 12, 2003
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member