

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BENNIE G. BROWN and U.S. POSTAL SERVICE,
POST OFFICE, Atascadero, CA

*Docket No. 03-254; Submitted on the Record;
Issued July 10, 2003*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury to his left elbow and forearm in the performance of duty.

On January 27, 2002 appellant, then a 61-year-old window clerk filed a notice of occupational disease and claim for compensation, Form CA-2, alleging that in October 2001, he realized that his left elbow and forearm pain was causally related to his federal employment. Appellant indicated that his job required numerous movements of his arm and that resulted in the pain in his arm. On the reverse of the form, his supervisor indicated that he did not stop working.

Evidence accompanying the claim consisted of appellant's personal statement and a medical report from Dr. William K. Ebert, a Board-certified family practitioner, dated January 21, 2002. He noted appellant's condition as left elbow pain with a distinct click/catch. Dr. Ebert noted that appellant's condition seemed to be joint related, likely from repetitive motion at work. In an accompanying form report, he diagnosed left elbow pain and checked a box "yes" to indicate that appellant's findings and diagnosis were consistent with the history of gradually worsening arm pain with repetitive work motion.

By letter dated February 28, 2002, the Office of Workers' Compensation Programs advised appellant that the information submitted in his claim was not sufficient to determine whether he was eligible for benefits under the Federal Employees' Compensation Act.¹ The Office advised him of the additional medical and factual evidence needed to support his claim. In particular, appellant was advised that no diagnosis was provided in his previously filed doctor's report. He was also informed that pain was a symptom, not a diagnosis. Finally, appellant was directed to provide a comprehensive medical report from his treating physician.

¹ 5 U.S.C. §§ 8101-8193.

In response to the Office's letter, appellant submitted a statement noting his medical treatment. He did not submit any medical reports.

By decision dated April 24, 2002, the Office denied appellant's claim. The Office found that appellant failed to establish fact of injury, as he had not submitted sufficient medical evidence to establish his claim.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury to his left elbow and forearm in the performance of duty.

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 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.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;⁴ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁵ and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed⁶ or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁷

The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.⁸ 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

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *See Ronald K White*, 37 ECAB 176, 178 (1985).

⁵ *See John A. Snowberger*, 34 ECAB 1262, 1271 (1983); *Walter D. Morehead*, 31 ECAB 188, 194 (1979); *Rocco Izzo*, 5 ECAB 161, 164 (1952).

⁶ *See Georgia R. Cameron*, 4 ECAB 311, 312 (1951); *Arthur C. Hamer*, 1 ECAB 62, 64 (1947).

⁷ *See generally Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

⁸ *See Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

In the instant case, appellant has attributed the occurrence of his elbow and forearm pain to his federal employment. The medical evidence submitted by appellant, however, is not sufficient to establish a causal relationship between the claimed condition and his federal employment. As noted above, the medical evidence must contain an opinion with supporting rationale. Appellant submitted a medical report from Dr. Ebert, in which, he found that appellant had pain in his left elbow and forearm, with a distinct click or catch. Dr. Ebert found that this pain was likely caused by repetitive motion at work. However, this is insufficient to establish the claim because Dr. Ebert did not provide a medical rationale explaining how appellant's elbow condition occurred while in the performance of his assigned duties. Also, this statement without further medical justification is speculative in nature and thus insufficient to establish causal relationship.¹⁰ Further, Dr. Ebert's January 21, 2002 report diagnosed appellant's condition as left elbow pain and checked a box "yes" to indicate that appellant's findings and diagnosis were consistent with the history of gradually worsening arm pain with repetitive work motion. However, the Board has held that a checkmark in support of causal relationship is insufficient to establish a claim in the absence of medical rationale explaining the basis of Dr. Ebert's decision.¹¹

As appellant has failed to submit a rationalized medical report based on a complete factual and medical background for which a medical condition was diagnosed and explaining how such condition occurred while in the performance of his federal employment, the Office properly denied his claim.

⁹ See *James Mack*, 43 ECAB 321 (1991).

¹⁰ *Frederick H. Coward, Jr.* 41 ECAB 843 (1990).

¹¹ *Alberta S. Williamson*, 47 ECAB 569 (1996).

The decision of the Office of Workers' Compensation Programs dated April 24, 2002 is affirmed.¹²

Dated, Washington, DC
July 10, 2003

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

¹² Appellant did submit medical reports after the Office issued its decision. The Board's jurisdiction is limited to evidence which was before the Office at the time it rendered the final decision. Inasmuch as this evidence was not considered by the Office, it cannot be considered on review by the Board. 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting such evidence to the Office as part of a reconsideration request.