

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CELINE M. ROWICKI and U.S. POSTAL SERVICE,
PROCESSING PLANT, Spokane, WA

*Docket No. 03-729; Submitted on the Record;
Issued July 10, 2003*

DECISION and ORDER

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

The issue is whether appellant sustained an injury in the performance of duty.

On June 17, 2002 appellant, then a 45-year-old automation clerk, filed a claim for occupational disease, stating that her pinched nerve and muscle spasm were caused by her employment. Appellant stated that she first became aware of her condition and that it was caused or aggravated by her employment on May 24, 2002. The employing establishment stated that appellant was last exposed to conditions alleged to have caused her condition on June 14, 2002 and that she first reported her condition to her supervisor on June 17, 2002.

By letter dated June 24, 2002, the Office of Workers' Compensation Programs advised appellant that the information she had submitted was insufficient to establish that she sustained an injury as alleged. The Office requested that appellant's attending physician submit a detailed, narrative medical report which includes symptoms, test results, treatment and a conclusive opinion about the diagnosis and medical reasons for the opinion.

By decision dated September 17, 2002, the Office denied appellant's claim on the grounds that the evidence failed to support that appellant's condition was causally related to her employment. By letter dated September 30, 2002, appellant requested reconsideration. By decision dated October 23, 2002, the Office denied modification of the September 17, 2002 decision.

The Board finds that appellant failed to establish that she sustained an injury in the performance of duty.

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 the 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 diagnosed condition was causally related to the employment factors identified by the claimant.¹

The medical evidence required to establish a causal relationship generally, 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 a 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 factors identified by the claimant.²

Appellant submitted a narrative dated July 23, 2002 in which she stated that the date of injury was "most likely April 26, 2002," when she saw Dr. Graham for elbow and back pain just when she had started mowing her lawn for the first time. She was doing well until May 17, 2002 when her back, shoulder and neck were bothering her after she finished work. On June 14, 2002, after working her shift, she was again sore in the neck and shoulder. She called in sick hoping that her condition would improve, but by Monday, June 17, 2002, she was worse as "it was hard to turn [her] neck." Appellant noted a prior claim that was accepted for supraspinatus muscle spasm and trapezius muscle spasm.

In support of her pinched nerve and back pain claim, appellant submitted multiple reports from her treating physician, Dr. Janice Graham, Board-certified in family practice. In an April 26, 2002 report, she stated that appellant had elbow pain after mowing her lawn, "and that she has had that for a couple of weeks." Dr. Graham also noted back pain but added that "[i]t is not work related." This report has no probative value because she did not find a work-related injury or condition. In fact, Dr. Graham related a history of injury that is different from appellant's, noting that she had had elbow pain for several weeks as of April 26, 2002, and that her back condition was not work related. Appellant also submitted several CA-17s, duty status reports, from her, covering June 18 to August 27, 2002. None of these reports included a rationalized medical opinion establishing a work-related condition on either April 26 or May 24, 2002. Dr. Graham stated in a July 1, 2002 report that appellant reinjured her trapezius muscle at work, but provided no date of injury, description of injury or a rationalized medical opinion in support of her conclusion. In a report dated July 26, 2002, she stated that appellant's date of injury was June 13, 2002 and noted trapezius and cervical strain.³ This report has no probative weight because it does not establish a causal relationship between appellant's alleged pinched nerve and back pain injuries with her employment and it relates a history of injury that is inconsistent with appellant's claim and with her subsequent narrative.

Dr. Frank Goodman, a colleague of Dr. Graham and also Board-certified in family practice, saw appellant in Dr. Graham's absence on June 17, July 1 and 15, 2002. In his June 17,

¹ *Donna L. Mims*, 53 ECAB ____ (Docket No. 01-1835, issued August 13, 2002).

² *Allen C. Hundley*, 53 ECAB ____ (Docket No. 02-107, issued May 17, 2002).

³ Dr. Graham's October 1, 2002 report essentially repeated her July 26, 2002 report.

2002 report, Dr. Goodman noted appellant's neck pain, trapezius sprain and noted a mild C6 radiculopathy. In his July 1, 2002 report, Dr. Goodman noted left shoulder pain, and in his July 15, 2002 report, he noted left trapezius sprain with possible cervical impingement. However, Dr. Goodman did not relate appellant's conditions to her employment; further, the reports lack adequate medical rationale as well as a complete factual and medical history of appellant's condition.

In a report dated July 26, 2002, Dr. J. Robert Clark, Board-certified in psychiatry and neurology, examined appellant that day for left hand numbness and radiating pain in the left upper extremity. He determined that appellant had left C7 radiculopathy and evidence of some carpal tunnel syndrome. However, Dr. Clark did not attribute either of these conditions to appellant's employment. His report is of limited probative value for the further reason that it lacks adequate medical rationale and a complete factual and medical history.

An award of compensation may not be based on surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between her condition and her employment.⁴ To establish causal relationship, appellant must submit a physician's report, in which the physician reviews the factors of employment identified by appellant as causing her condition as well as providing findings upon examination of appellant and appellant's medical history, and state whether these employment factors caused or aggravated appellant's diagnosed condition.⁵ Appellant failed to submit such evidence and, therefore, failed to discharge her burden of proof.

The October 23, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 10, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ *William S. Wright*, 45 ECAB 498 (1993).

⁵ *Id.*