

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAULETTE G. WINTERS and U.S. POSTAL SERVICE,
POST OFFICE, Liberty, MO

*Docket No. 03-1553; Submitted on the Record;
Issued September 29, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has established that she sustained a right upper extremity condition in the performance of duty as alleged.

On April 21, 2003 appellant, then a 47-year-old rural carrier associate, filed a notice of occupational disease (Form CA-2) alleging that she sustained right arm, shoulder, wrist and thumb pain beginning on March 30, 2003. She stopped work on April 21, 2003.

In an April 23, 2003 letter, the Office of Workers' Compensation Programs advised appellant of the type of additional evidence needed to establish her claim. The Office noted that appellant's claim form did not adequately describe the work activities alleged to have caused the claimed condition. The Office also advised appellant to submit rationalized medical evidence explaining any causal relationship between work factors and the claimed right upper extremity condition. Appellant was afforded 30 days in which to submit such evidence.

In response, appellant submitted April 30 and May 2, 2003 letters, noting that on April 9, 2003 she sought treatment for a two-week history of right arm pain and was diagnosed with tendinitis by an unnamed physician. Appellant also recalled the onset of acute right shoulder pain on April 15, 2003 while reaching into a mail tub to retrieve a package, noting that she informed her supervisor. As of May 2, 2003, appellant stated that the right rhomboid pain had abated, but she had "mild discomfort from tend[i]nitis ... thumb and upper arm."¹

Appellant submitted an April 25, 2003 report from Dr. Mark K. Hutchison, an attending anesthesiologist, who diagnosed an acute right rhomboid strain, prescribed medication, held

¹ Appellant noted that she fractured her right forearm in a January 1988 motor vehicle accident with no current residuals.

appellant off work and referred her to physical therapy. Appellant also submitted April 28 and 30, 2003 physical therapy slips.²

The employing establishment submitted appellant's position description, characterizing her duties as physically "arduous." Appellant was required to load and unload a delivery vehicle, lift trays of mail weighing 15 to 20 pounds, push loaded mail hampers, case mail, grasp letters and flat mail while casing mail, and perform repetitive twisting and turning when placing mail into customers' mailboxes.

By decision dated May 27, 2003, the Office denied appellant's claim for a right upper extremity condition. The Office found that the "claimed events" occurred as alleged, but that there was insufficient medical evidence to establish that appellant sustained a medical condition resulting from those factors.

Appellant filed her appeal with the Board on June 4, 2003.

The Board finds that appellant has not established that she sustained a right upper extremity condition in the performance of duty as alleged.

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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.³ The belief of the claimant that a condition was caused or aggravated by the employment is not sufficient to establish a causal relationship.⁴

In this case, the Office accepted that appellant's job required the activities set forth in the position description. However, the Office found that appellant submitted insufficient medical and factual evidence to establish that she sustained the claimed right upper extremity condition as a result of those factors.

In support of her claim, appellant submitted an April 25, 2003 form report from Dr. Hutchison, an attending anesthesiologist, diagnosing an acute right rhomboid strain. However, he did not provide a history of injury, mention any of appellant's job duties, or provide

² Appellant submitted an April 20, 2003 form report from Dr. R. Brown, diagnosing a lumbosacral strain and returning appellant to full duty as of that day. As Dr. Brown's first name does not appear in the report or elsewhere in the case record, Dr. Brown's identity, specialty and any Board certifications cannot be ascertained. Also, as there is no claim of record for a lumbosacral strain, the April 20, 2003 form report is not relevant to the present claim.

³ *Gary J. Watling*, 52 ECAB 278 (2001); *Charles E. Burke*, 47 ECAB 185 (1995).

⁴ *Manuel Garcia*, 37 ECAB 767 (1986).

medical rationale attributing a right upper extremity condition to work factors. Thus, Dr. Hutchison's opinion is of very little probative value in establishing fact of injury in this case.⁵ As the two physical therapy notes were not signed or reviewed by a physician, they do not constitute medical evidence.⁶

The Board notes that there is conflicting evidence of record as to the nature of appellant's claim. Appellant filed an April 21, 2003 claim for an occupational condition affecting the right upper extremity. However, in subsequent letters, appellant stated both that she was diagnosed on April 9, 2003 with the condition of right upper extremity tendinitis,⁷ and that she sustained an acute right rhomboid strain on April 15, 2003. These factual inconsistencies, coupled with a lack of medical evidence substantiating either account of events, cast further doubt on causal relationship in this case.⁸

The Board also notes that appellant was advised by an April 23, 2003 letter of the type of additional evidence needed to establish her claim, including a narrative report from her attending physician containing a complete history of injury and medical rationale explaining how and why the diagnosed condition was related to work factors, such as casing mail, loading or unloading a delivery vehicle, or reaching into a tub of mail. However, appellant did not submit such evidence.

Consequently, appellant has failed to establish that she sustained a right upper extremity condition in the performance of duty, as she submitted insufficient evidence to establish that she sustained a medical condition related to any factors of her federal employment.

⁵ *Gloria J. McPherson*, 51 ECAB 441 (2000).

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

⁷ Appellant did not submit medical reports from the April 9, 2003 visit, or other medical evidence diagnosing tendinitis of the right upper extremity.

⁸ *Kenneth R. Love*, 50 ECAB 193 (1998).

The decision of the Office of Workers' Compensation Programs dated May 27, 2003 is hereby affirmed.

Dated, Washington, DC
September 29, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member