

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**EVELYN SILINZY, Appellant**

**and**

**U.S. POSTAL SERVICE, St. Louis, MO,  
Employer**

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**Docket No. 02-1580  
Issued: January 13, 2004**

*Appearances:*  
*Evelyn Silinzy, 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 June 13, 2002 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated October 5, 2001. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue on appeal is whether appellant has met her burden of proof in establishing that she sustained a left wrist injury in the performance of duty.

**FACTUAL HISTORY**

On March 15, 2001 appellant, then a 42-year-old automated mark-up clerk, filed a claim alleging that she sustained a left wrist injury that day when lifting mail tubs. Appellant did not stop work.

Appellant submitted an emergency service note dated March 15, 2001 which diagnosed a left wrist sprain and swelling, aggravated by appellant's employment duties of typing and lifting. A workers' compensation employer information report noted appellant was treated for left wrist swelling and pain.<sup>1</sup> Also submitted was a duty status form dated March 19, 2001, where Dr. Ernesto Gutierrez, a Board-certified internist, noted that appellant injured her left forearm and he thereafter restricted her from typing. In attending physician's reports dated March 20 and 22, 2001, Dr. Gutierrez noted appellant's complaints of pain in the left forearm which had been present for approximately three to four weeks. He noted with a check mark "yes" that the condition was caused or aggravated by an employment activity and advised that the pain in the left forearm returned on March 12, 2001 after appellant lifted an object. Dr. Gutierrez stated that he initially treated appellant on March 6, 2001 and advised that she was permanently disabled March 12 to 26, 2001. In return to work notes dated March 19 and 22, 2001, Dr. Gutierrez diagnosed left wrist sprain and advised that appellant could return to work on March 24, 2001.

By letter dated April 5, 2001, the Office asked appellant to submit additional information including a comprehensive medical report from her treating physician which included a reasoned explanation as to how the specific work factors or incidents identified by appellant had contributed to her claimed left wrist injury.

In treatment notes dated March 6 to April 17, 2001, Dr. Gutierrez diagnosed tendinitis of the left wrist which had commenced three to four weeks prior. His note of March 6, 2001 advised that appellant was unable to key or type March 6 to 13, 2001. In a return to work slip dated March 31, 2001, Dr. Gutierrez advised that appellant was being treated for a medical condition and would be unable to work March 28 to April 4, 2001. In a duty status report dated June 8, 2001, Dr. Gutierrez noted appellant's treatment for a left wrist condition and indicated that she should be on light duty June 8 to September 8, 2001. An x-ray of the left wrist dated March 6, 2001 revealed no fractures. Also submitted was a report from Dr. Gary H. Frumson, a specialist in orthopedics, dated May 22, 2001, which excused appellant from work May 12 to 16, 2001 and advised that she could return to light duty on May 17 to 19, 2001 with restrictions of no lifting greater than 10 pounds, no use of the left upper extremity and no standing.

In a decision dated October 5, 2001, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that her condition was caused by the factors of employment as required by the Federal Employees' Compensation Act.<sup>2</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under the 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

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<sup>1</sup> The physician's signature is illegible.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

the employment injury. 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.<sup>3</sup>

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.<sup>4</sup> In some traumatic injury cases this component can be established by an employee's uncontroverted statement on the Form CA-1.<sup>5</sup> An alleged work incident does not have to be confirmed by eyewitnesses in order to establish that an employee sustained an injury in the performance of duty, but the employee's statement must be consistent with the surrounding facts and circumstances and his subsequent course of action.<sup>6</sup> A consistent history of the injury as reported on medical reports, to the claimant's supervisor and on the notice of injury can also be evidence of the occurrence of the incident.<sup>7</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>8</sup>

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 rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>9</sup> The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>10</sup>

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<sup>3</sup> *Gary J. Watling*, 52 ECAB 357 (2001).

<sup>4</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>6</sup> *See Michael W. Hicks*, 50 ECAB 325 (1999).

<sup>7</sup> *Id.*

<sup>8</sup> *Michael E. Smith*, *supra* note 4.

<sup>9</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>10</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

## ANALYSIS

Appellant alleged that she sustained a left wrist condition as a result of lifting mail tubs. The Board initially notes that the Office apparently found, and the Board agrees, that the lifting incident occurred on March 15, 2003 as alleged. The Board finds, however, that the medical evidence is insufficient to establish that appellant sustained a left wrist condition on March 15, 2003 causally related to her employment duties. Appellant submitted treatment notes from Dr. Gutierrez dated March 6 to April 17, 2001, which noted appellant's treatment for tendinitis of the left wrist that had commenced three to four weeks prior and he advised that appellant was unable to key or type March 6 to 13, 2001. However, Dr. Gutierrez does not provide a rationalized opinion regarding the causal relationship between appellant's left wrist injury and the factors of employment believed to have caused or contributed to such condition.<sup>11</sup> Also submitted were attending physician reports from Dr. Gutierrez dated March 20 and 22, 2001, whereby he noted appellant's complaints of pain in the left forearm which had been present for approximately three to four weeks. He noted with a checkmark "yes" that the condition was caused or aggravated by an employment activity, specifically noting that appellant's symptoms were caused by lifting an object. He also stated that this occurred on March 12, 2001. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. In this case, while Dr. Gutierrez provided some explanation, his date of injury is not consistent with that provided by appellant. The Board therefore finds this report of decreased probative value and insufficient to establish causal relationship.<sup>12</sup> Therefore, these reports are insufficient to meet appellant's burden of proof.

The emergency service note dated March 15, 2001 advised that appellant was treated for a left hand and wrist injury and diagnosed left wrist sprain and swelling which was aggravated by typing and lifting at work. However, the Board finds that, although this note somewhat supports causal relationship, the physician, whose signature is illegible, provided no medical reasoning or rationale to support his opinion.<sup>13</sup>

In a report dated May 22, 2001, Dr. Frumson advised that appellant was excused from work May 12 to 16, 2001 and could return to light duty on May 17 to 19, 2001. He, however, neither mentioned that appellant's condition was work related nor did he provide a rationalized opinion regarding the causal relationship between appellant's left wrist injury and the factors of employment believed to have caused or contributed to such condition.<sup>14</sup> Therefore, this report is insufficient to meet appellant's burden of proof.

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<sup>11</sup> *Id.*

<sup>12</sup> *See Jimmie H. Duckett, supra* note 10.

<sup>13</sup> *Id.*

<sup>14</sup> *See Jimmie H. Duckett, supra* note 10.

**CONCLUSION**

The Board therefore finds that, as none of the medical reports provided an opinion that appellant developed an employment-related injury in the performance of duty, appellant failed to meet her burden of proof.<sup>15</sup>

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 5, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 13, 2004  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>15</sup> See *Calvin E. King*, 51 ECAB 394 (2000).