

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of REENA DEL ROSSI and DEPARTMENT OF THE ARMY
Fort Belvoir, VA

*Docket No. 03-799; Submitted on the Record;
Issued January 5, 2004*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty causally related to factors of her federal employment.

Appellant, then a 54-year-old budget assistant, alleged that her computer workstation was improperly set up causing injury to her left shoulder, neck, right wrist and thumb. She started having neck and shoulder pain in November 2001 and, in February or March 2002, appellant began having wrist and thumb pain. On the reverse side of the Form CA-2, the employing establishment stated that appellant first reported the conditions to her supervisor on May 15, 2002 and was last exposed to the factors of employment alleged to have caused her conditions on June 10, 2002. On September 16, 2002 the Office of Workers' Compensation Programs received appellant's Form CA-2 from the employing establishment, signed by appellant's supervisor on June 13, 2002.

Accompanying the claim form were December 11, 2001 office notes by Dr. Fred H. Brennan, a physician, who noted that appellant was seen with complaints of neck and left shoulder pain. He diagnosed a muscle strain most likely due to long periods of time in one position in her chair at her computer. In an undated statement, appellant noted that her neck and shoulder pains continued so she went to the hospital. She explained that she works on the computer and that she was told that sitting at the computer in one position was causing her problems. Appellant returned to work on light duty and an ergonomics survey found that her work area was not appropriate. The employing establishment ordered appellant a new chair and track ball. In a July 8, 2002 medical slip, Dr. Andrew C. Friedman, a plastic hand surgeon, stated that appellant could return to work on light duty, with no heavy lifting, no repetitive motions and recommended that her workstation be modified with no use of the computer mouse.

A July 9, 2002 memorandum from the employing establishment discussed appellant's detail for 30 days to a position to "give your right hand a better chance to rest without having to

key on a continuous basis.” In a June 13, 2002 attending physician’s report, Dr. Friedman diagnosing de Quervain’s tendinitis and checked “yes” to the question on causal relationship. A June 20, 2002 survey with diagram of appellant’s workstation.

By letter dated October 18, 2002, the Office advised appellant that it did not have the front page of the Form CA-2 and requested that she have the employing establishment forward the page. A copy of the letter was sent to the employing establishment. Appellant was allotted 30 days to respond. No response was received.

By decision dated November 22, 2002, the Office denied appellant’s claim finding that the evidence of record was insufficient to establish that she experienced the claimed employment factors in the manner alleged because the CA-2 form was not complete and, therefore, she failed to establish an injury within the meaning of the Federal Employees’ Compensation Act.

The Board finds that appellant has failed to establish that the identified factors of employment caused a personal injury.

An employee seeking benefits under the Act¹ 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 limitations 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.² 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.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; (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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish 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 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

¹ 5 U.S.C. § 8101.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

Appellant submitted factual evidence to support that she experienced the claimed employment factors. She attributed her condition to the use of her computer and computer workstation. An employing establishment survey evaluation indicated that appellant's computer, chair and mouse were not set up appropriately and that there were inadequate arm-rests. It was recommended to adjust the monitor, change the keyboard and get a new chair and track ball. The employing establishment did not dispute appellant's description of her work environment. On the reverse side of the Form CA-2, appellant's supervisor noted that the information given by appellant was true to the best of her knowledge. The Board finds that she has sufficiently identified the factors of employment to which she attributes her claimed conditions, *i.e.*, that she sat in a chair at a computer station each day to work as a budget assistant.⁵

The medical evidence must not only establish the existence of a condition, but also establish that the medical condition is causally related to the factors of employment identified by appellant. The medical evidence submitted in support of her claim consisted of office notes from Dr. Brennan, who indicated that appellant was seen with complaints of neck and left shoulder pain. He diagnosed a muscle strain, most likely due to long periods of time in one position in her chair at her computer. Dr Brennan's opinion is speculative and fails to include any rationale. Therefore, his opinion is insufficient to establish appellant's claim.

On a July 8, 2002 medical slip Dr. Friedman stated that appellant could return to work on light duty with no heavy lifting, no repetitive motions and recommending that her workstation be modified with no use of the computer mouse. The medical slip does not include a diagnosis or address a causal relationship between a diagnosed condition and the employment factors identified by appellant. The medical slip is insufficient to establish appellant's claim. On June 13, 2002 Dr. Friedman diagnosed de Quervain's tendinitis and checked "yes" to the question on causal relationship. The Board has held that, when a physician's opinion on causal relationship consists only of checking "yes" to a form question without an explanation as to causal relationship supported by medical rationale, that opinion has little probative value and is insufficient to establish causal relationship.⁶ On June 6, 2002 Dr. Friedman indicated that appellant could not work for one month and recommended modification of her workstation. In May 9, 2002 office notes, he indicated that she worked about 90 percent of the time at the computer using a mouse and diagnosed de Quervain's tendinitis. Dr. Friedman failed to adequately explain the causal relationship between the diagnosed condition and the factors of employment identified by appellant. The June 6, 2002 sick slip and May 9, 2002 office notes are insufficient to establish her claim.

⁴ *Id.*

⁵ *Thelma Rogers*, 42 ECAB 866 (1991).

⁶ *Ruth S. Johnson*, 46 ECAB 237 (1994)

The decision of the Office of Workers' Compensation Programs dated November 22, 2002 is affirmed.⁷

Dated, Washington, DC
January 5, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁷ The Board notes that appellant submitted medical evidence with her appeal. As this evidence was not previously submitted to the Office for consideration prior to its decision of November 22, 2002, the evidence represents new evidence, which cannot be considered by the Board. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may resubmit this evidence to the Office, together with a formal request for reconsideration pursuant to 5 U.S.C. § 81828(a) and 20 C.F.R. § 10.606(b).