

May 15, 2003 for complaints of left shoulder and arm pain. He listed his impression as: "Left arm pain due to overuse syndrome. There may be a slight element of radiculopathy, but I think that it [i]s more likely muscular ligamentous." On June 9, 2003 appellant complained to Dr. Moen of increased pain in her left arm. In a report of June 20, 2003, Dr. Moen indicated that he could not exclude a cervical radiculopathy. He ordered an electromyogram for appellant. He stated that he believed that appellant's job requirements as a federal employee had contributed to her condition. Dr. Moen indicated that, once a definitive diagnosis was made, he was hopeful that changes could be made in her workstation.

The employing establishment submitted a report from Susan M. Jaroszewski, an industrial and occupational health specialist. On May 15, 2003 she performed an ergonomic assessment of appellant's work environment and "found the main work area unacceptable as a workstation." She noted problems with the table appellant was using, the location of the computer screen and her chair positioning. She indicated that, as of May 19, 2003, none of the recommended changes had occurred.

By letter dated June 20, 2003, appellant responded to the Office's request for further information. She noted that, by the end of the first day she started to work for the employing establishment, she "had a knot and tight muscles in [her] shoulder from sitting and typing," and that from thereon "it continued to progress." She noted that she had no outside activities that could have caused the pain.

By decision dated July 1, 2003, the Office denied appellant's claim as it found it insufficient to show that the alleged event occurred. The Office furthermore found that there was no medical diagnosis that could be connected to the claimed event.

By letter dated June 24, 2003, and received by the Office on July 3, 2003, the employing establishment controverted the claim.

After the decision, further information was submitted, including a July 10, 2003 report from Dr. Moen, who stated:

"At this point in time, I feel [appellant] has a cervical radiculopathy. It is my medical opinion that this is more likely than not related to her employment with [the employing establishment]."

Dr. Moen indicated that appellant had not responded to conservative treatment and that further testing and evaluation was necessary. Dr. Daniel Stephenson, an osteopath, also submitted a medical report dated June 16, 2003, which indicated that soon after March 31, 2003 appellant discussed neck and shoulder pain that she was experiencing that these findings were coincident with her starting employment with the employing establishment, and indicated that he recommended that she have an ergonomic evaluation of her workstation, which was subsequently accomplished. Appellant also submitted additional physical therapy reports.

By decision dated September 5, 2003, the Office reviewed appellant's request for reconsideration on the merits, but found the evidence was insufficient to modify or reverse the decision of July 1, 2003. Specifically, the Office found that the medical evidence was insufficient to establish the medical fact of injury.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation 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 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.²

In an occupational disease claim, claimant must submit: (1) medical evidence establishing the existence of the disease or condition on which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the disease; and (3) medical evidence establishing that the employment factors were the proximate cause of the disease, or stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.³

ANALYSIS

In the instant case, the Office properly determined that appellant had not submitted medical evidence sufficient to establish fact of injury. Dr. Moen's initial diagnosis of left arm pain and Dr. Stephenson's comment that appellant had neck and shoulder pain are insufficient to establish a definitive medical diagnosis.⁴ By the time of his July 10, 2003 report, Dr. Moen indicated, "I *feel* [appellant] has a cervical radiculopathy." (Emphasis added.) This opinion is speculative; it does not constitute a definitive diagnosis. There were no medical tests performed to support this diagnosis. Dr. Moen indicated that further diagnostic testing was necessary. Accordingly, as Dr. Moen's medical reports do not provide sufficient rationale to support his conclusions, they do not constitute rationalized medical evidence in support of appellant's claim. The Office properly denied appellant's claim for compensation.

CONCLUSION

Under the circumstances as described above, the Board finds that appellant has not established that she sustained an injury in the performance of duty.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989); *see also Melinda C. Epperly*, 45 ECAB 196 (1993).

³ *Id.*

⁴ *Joseph N. Fassi*, 42 ECAB 677, 678 (1991) (the diagnosis of "pain" is not sufficient as it is a symptom rather than a diagnosis.)

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated September 5 and July 1, 2003 are hereby affirmed.

Issued: March 24, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member