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

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| **TERRY M. TEELE-DOHERTY, Appellant** | ) | |
| **and** | ) | **Docket No. 04-1205** |
| | ) | **Issued: September 3, 2004** |
| **U.S. POSTAL SERVICE, POST OFFICE, Nashua, NH, Employer** | ) | |

*Appearances:*
*J. William L. Mason, Esq.*, for the appellant
*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 April 5, 2004 appellant filed an appeal from an Office of Workers' Compensation Programs' merit decision dated May 22, 2003 and January 9, 2004 denying claim of an injury in the performance of duty. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

### ***ISSUE***

The issue is whether appellant has established that she sustained an injury in the performance of duty.

### ***FACTUAL HISTORY***

On December 17, 2001 appellant, then a 60-year-old casual clerk, filed a claim for compensation alleging that on December 8, 2001 she sustained chest pains radiating into her left arm after she had lifted heavy postal bags. Appellant stopped work on December 8, 2001 and was taken by ambulance to the hospital, where she remained for two days for cardiac

observation. Appellant returned to regular duty with lifting restrictions on December 18, 2001. By letter dated December 31, 2001, the employing establishment controverted the claim.

By letter dated January 4, 2002, the Office requested that appellant provide additional factual evidence along with a comprehensive medical report from her physician which described her symptoms, the results of examinations and tests, a diagnosis and the treatment provided along with the physician's opinion, with medical reasons, on the cause of her condition and how the incident in her federal employment contributed to her condition.

Appellant submitted a copy of the December 9, 2001 ambulance report from the Rockingham Regional Ambulance, Incorporated along with the medical records from Southern New Hampshire Medical Center. In a December 9, 2001 report, Dr. Mark A. Meess, a Board-certified internist, noted that appellant was at work lifting heavier bags of mail than usual, 40 to 50 pounds instead of her usual 20 to 30 pounds and, after 30 minutes, developed diffuse left anterior chest pain radiating to the inside of her upper left arm. Appellant was transported to the emergency room, where her discomfort resolved in conjunction with receiving nitroglycerin and metoprolol. The total duration of discomfort was noted to be approximately two hours. Dr. Meess reported that appellant was admitted for suspected angina, new onset. He stated that her history was suspicious for ischemia and noted that appellant had borderline electrocardiogram (EKG) abnormalities which resolved overnight. In the December 9, 2001 emergency department note, Dr. Brain Miller diagnosed acute chest pain, rule out myocardial infarction.[1]

In a December 9, 2001 cardiology consultation, Dr. Wendi A. Cardeiro, a cardiologist, noted the history of injury and that appellant's pain had lasted two hours before resolving in the emergency room with Nitro-Paste and beta blockers. She stated that appellant presented with a reasonable story for chest pain as appellant had cardiac risk factors which included a strong family history and questionable increased cholesterol. Dr. Cardeiro stated that appellant's EKG had "nonspecific ST wave changes which could be unstable angina/non-Q-wave myocardial infarction." In a December 10, 2001 report, Dr. Cardeiro advised that the exercise echocardiogram (ECG) was negative for inducible ischemia. In a December 10, 2001 discharge summary report, Dr. Anne F. Tarry, a Board-certified internist, advised that myocardial infarction had been ruled out by enzymes and the stress ECG was unremarkable and showed no evidence of ischemia.

By decision dated February 12, 2002, the Office found the evidence of record sufficient to establish that appellant actually experienced the claimed event, but insufficient to establish that she sustained a condition caused by this incident. Accordingly, the Office denied appellant's claim for compensation.

By letters dated February 22 and March 12, 2002, appellant requested reconsideration and submitted additional medical evidence. In a December 31, 2001 report, Dr. Tarry noted that appellant had been hospitalized December 8, 2001, for rule out of myocardial infarction because of severe chest pain. Examination findings were noted and an assessment of atypical chest pain

[1] Dr. Miller's credentials are not of record.

was provided with the recommendation that appellant avoid heavy lifting over 70 pounds. Dr. Tarry advised that it was most likely musculoskeletal strain from lifting heavy bags at work.

By decision dated May 23, 2002, the Office denied modification of its February 12, 2002 decision.

Appellant disagreed with the Office's decision and submitted additional medical evidence. In a June 10, 2002 medical note, Dr. Tarry opined that appellant had suffered a musculoskeletal strain as a result of lifting heavy bags of mail at the employing establishment where she worked on December 9, 2001 which resulted in the need for her to be hospitalized. Copies of Dr. Cardeiro's December 9, 2001 cardiology consultation, the December 10, 2001 exercise ECG were resubmitted.

By decision dated May 22, 2003, the Office denied modification of its previous decision.

In an October 9, 2003 letter, appellant, through her attorney, requested reconsideration and submitted additional evidence. In a June 19, 2003 report, Dr. Frank A. Graf, a Board-certified orthopedic surgeon, noted the history of injury and that a myocardial infarction was ruled out. Appellant's orthopedic examination was noted as being negative. Dr. Graf further reviewed appellant's objective testing and medical records at the time of injury. The physician opined that appellant suffered a chest wall injury, following lifting at work, with no current residuals and complete recovery documented by patient symptoms and follow-up clinical examination. He further opined that the hospitalization was reasonable at the time in order to rule out myocardial infarction, which was in fact ruled out and appellant was discharged and made a rapid recovery. He opined that the injury to the chest wall was work related by reason of lifting of heavy mailbags.

In a September 25, 2003 report, Dr. Meess related that he was the admitting physician for appellant's hospitalization on December 9, 2001. He stated that he reviewed his notes at the time of her admission and advised that, at the time of her admission, he was concerned that she had angina which was new in onset and related to the heavier than usual lifting activity that she had participated in at work. Dr. Meess noted that, although her subsequent evaluations did not show evidence of coronary disease, it was still his opinion that her chest pain on admission was the result of her heavy exertion at work.

By decision dated January 9, 2004, the Office denied modification of its prior decisions.

## ***LEGAL PRECEDENT***

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing that he or she sustained an injury while in the performance of duty.[3] 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

[2] 5 U.S.C. §§ 8101-8193.

[3] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[4]

In order to satisfy her burden of proof, an employee must submit a physician's rationalized medical opinion on the issue of whether the alleged injury was caused by the employment incident.[5] 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 employee's alleged injury and the employment incident. The physician's opinion must be based on a complete factual and medical history of the employee, must be of reasonable certainty and must rationally explain the relationship between the diagnosed injury and the employment incident as alleged by the employee.[6]

## ***ANALYSIS***

In this case, the Office accepted that the December 8, 2001 heavy lifting incident occurred as alleged. The Office, however, found the medical evidence of record insufficient to establish a diagnosed condition and the incident. Dr. Tarry's December 31, 2001 and June 10, 2002 reports indicating that appellant had an "atypical chest pain" and that she had suffered from a musculoskeletal strain as a result of lifting heavy bags at the employing establishment are insufficient to establish appellant's burden because the reports fail to provide any reasoning to support the doctor's conclusion that appellant's lifting on December 8, 2001 caused a musculoskeletal strain.

Dr. Graf's June 19, 2003 report which diagnosed a chest wall injury following lifting at work is insufficient to establish appellant's burden because it failed to discuss how appellant's conditions were caused by the December 8, 2001 incident. He did not provide any medical reasoning to support his conclusion. Further, Dr. Graf's report did not explain his opinion in light of appellant's normal x-ray findings and negative ECG which were taken near the time of the claimed injury.

In his September 25, 2003 report, Dr. Meess indicated that appellant had chest pain as a result of her heavy exertion at work. However, he provided no definitive diagnosis regarding appellant's chest pain and he failed to provide medical reasoning explaining how appellant sustained any condition as a result of her work activities. He also did not explain his opinion in light of other evaluations that revealed no evidence of coronary disease.

Other medical reports did not specifically support that appellant's employment caused or aggravated any particular medical condition.

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[4] *Shirley A. Temple*, 48 ECAB 404, 407 (1997); *see John J. Carlone*, 41 ECAB 354, 357 (1989).

[5] *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

[6] *Gary J. Watling*, 52 ECAB 278 (2001).

The Office advised appellant of the type of medical evidence required to establish her claim; however, she failed to submit such evidence. Appellant did not provide a rationalized medical opinion to describe or explain how the December 8, 2001, employment-related lifting incident caused an injury.

## ***CONCLUSION***

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

## ***ORDER***

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decisions dated January 9, 2004 and May 22, 2003 are affirmed.

Issued: September 3, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member