

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

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**GUSSIE BROOKS, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Dallas, TX, Employer**

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**Docket No. 05-1729  
Issued: November 8, 2005**

*Appearances:*  
*Gussie Brooks, pro se*  
*Office of the Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
WILLIE T.C. THOMAS, Alternate Judge

**JURISDICTION**

On August 18, 2005 appellant filed a timely appeal from an Office of Workers' Compensation Programs' July 26, 2005 merit decision. Under 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 met her burden of proof in establishing that her claimed bilateral thumb condition was sustained in the performance of duty.

**FACTUAL HISTORY**

On May 26, 2005 appellant, a 49-year-old distribution clerk, filed a Form CA-2 claim for benefits, alleging that she developed a bilateral thumb condition caused by factors of her employment.

In support of her claim, appellant submitted: (a) a May 21, 2005 duty status report; (b) a May 25, 2005 report and May 24, 2005 form report from Dr. John S. Townsend, a specialist in forensic pathology and direct patient care; and (c) a May 26, 2005 radiology report from

Dr. S.J. Kechejian, Board-certified in internal medicine. In his May 25, 2005 report, Dr. Townsend stated that appellant's usual job requires her to repair, tape and repackage damaged mail before it was sent to postal patrons. He related that these repetitive activities, particularly taping tears in mail, resulted in progressively worsening pain in the thumb areas bilaterally, with the pain becoming severe as of May 21, 2005. Dr. Townsend diagnosed bilateral thumb strain/sprain/post-traumatic myositis; bilateral hand strain/sprain/post-traumatic myositis; and right hand/thumb repetitive stress/repetitive movement injury. In his May 24, 2005 form report, Dr. Townsend stated findings on examination, indicated that appellant had a bilateral thumb condition and noted that appellant was on light duty.

In his May 24, 2005 radiology report, Dr. Kechejian noted a normal examination and stated that both the right and left hands showed bony and joint structures, which appeared within normal limits without fracture.

By letter dated June 23, 2005, the Office advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. The Office asked appellant to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition and an opinion as to whether her claimed condition was causally related to her federal employment. The Office requested that appellant submit the additional evidence within 30 days. Appellant did not submit any additional medical evidence.

By decision dated July 26, 2005, the Office denied appellant's claim, finding that appellant failed to submit medical evidence sufficient to establish that she sustained the claimed bilateral thumb condition in the performance of duty.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing that 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.<sup>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

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

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

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 is usually rationalized medical 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 nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>4</sup>

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her claimed bilateral thumb condition and her federal employment. This burden includes providing medical evidence from a physician who concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>5</sup>

### ANALYSIS

The Board finds that appellant has failed to submit any medical evidence containing a rationalized, probative report, which relates her claimed bilateral condition to factors of her employment. For this reason, she has not discharged her burden of proof to establish her claim that this condition was sustained in the performance of duty.

Appellant submitted reports from Drs. Kechejian and Townsend, but neither of these reports provided a probative, rationalized medical opinion that the claimed bilateral thumb condition was causally related to employment factors. Dr. Townsend diagnosed bilateral thumb strain/sprain/post-traumatic myositis; bilateral hand strain/sprain/post-traumatic myositis; and right hand/thumb repetitive stress/repetitive movement injury. He stated that appellant's repetitive work activities, particularly taping tears in mail, resulted in progressively worsening bilateral thumb pain, becoming severe as of May 21, 2005. Dr. Kechejian recorded a normal examination and normal radiology results in his May 24, 2005 report.

The medical reports appellant submitted did not contain a probative, rationalized medical opinion that the claimed bilateral thumb condition was causally related to employment factors. These reports are therefore of limited probative value as they do not contain any medical rationale explaining how or why appellant's claimed bilateral thumb condition was currently affected by or related to factors of employment.<sup>6</sup> Although Dr. Townsend diagnosed a progressively worsening bilateral thumb condition caused by employment factors, he failed to provide a probative, rationalized medical opinion to establish that appellant's bilateral thumb

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<sup>4</sup> *Id.*

<sup>5</sup> *See Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

<sup>6</sup> *William C. Thomas*, 45 ECAB 591 (1994).

condition was causally related to any of her work duties. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.<sup>7</sup> Dr. Kechejian stated that appellant's examination and radiology results were normal. Neither of the physicians above submitted an opinion which sufficiently described the medical process through which appellant's employment would have been competent to cause the claimed back condition. The Office therefore properly found that appellant did not sustain a bilateral thumb condition in the performance of duty.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.<sup>8</sup> Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

The Office advised appellant of the evidence required to establish her claim; however, appellant failed to submit such evidence. Consequently, appellant has not met her burden of proof in establishing that her claimed back condition was causally related to his employment. The Board therefore affirms the Office's July 26, 2005 decision.

### **CONCLUSION**

The Board finds that appellant has failed to meet his burden of proof in establish that her claimed bilateral thumb condition was sustained in the performance of duty.

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<sup>7</sup> See *Anna C. Leanza*, 48 ECAB 115 (1996).

<sup>8</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 26, 2005 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: November 8, 2005  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge  
Employees' Compensation Appeals Board