

fingers and upper back conditions were employment related.¹ In an attached statement, appellant noted that she had experienced pain since 1992, but that it became worse in 2001. She noted that she “was suppose[d] to have an adjustable chair and foot stool” which she never received. Appellant’s duties include return to sender mail, keeping “the express labels in order” and to check the carriers in with their accountables. During the performance of these duties appellant noted that she could sit or stand at comfort.

In support of her claim, appellant submitted progress notes dated September 9 and October 7, 2003 by Dr. Ali A. Dini, a treating Board-certified orthopedic surgeon, who diagnosed lumbar strain and noted that appellant was currently working.

By letter dated October 28, 2003, the Office notified appellant that the information submitted was insufficient to establish her claim and advised her to describe the employment-related activities she believed caused her condition and to submit a medical report providing a diagnosis and reasoned opinion as to the cause of her condition. In a letter dated November 9, 2003, appellant described her employment duties in further detail.

By decision dated January 12, 2004, the Office denied appellant’s claim, finding that the evidence submitted did not establish that she sustained an injury, as alleged.² The Office found that there was no medical evidence that provided a diagnosis which could be connected to her employment duties.

Appellant requested an oral hearing before an Office hearing representative on February 4, 2004. Subsequent to the request, the Office received progress reports dated July 20 and August 17, 2004 by Dr. Dini and a June 21, 2001 magnetic resonance imaging (MRI) scan of the right shoulder. The MRI scan revealed “signal changes noted with the rotator cuff tendon compatible with tendinitis/tendinosis.” Dr. Dini diagnosed right shoulder tendinitis and right shoulder rotator cuff tear and released appellant to modified work on September 16, 2004. On August 17, 2004 he repeated his diagnosis.

A hearing was held on October 18, 2004 at which appellant testified and submitted an April 6, 2004 report by Dr. Dini. The Office also received an August 20, 2004 MRI scan of the right shoulder which revealed “mild degeneration of the bursal[-]sided fibers of the distal supraspinatus tendon without focal tear unchanged from prior study.”

The Office received progress reports dated April 6 to October 26, 2004 from Dr. Dini. On April 6, 2004 he diagnosed right shoulder tendinitis, right shoulder rotator cuff tear, bilateral carpal tunnel syndrome, lumbar strain, left shoulder tendinitis and status post left shoulder arthroscopic surgery. Dr. Dini noted that appellant “began having pain in her right shoulder and upper extremity about three years ago.” Appellant’s job duties included “frequent reaching

¹ Appellant noted that the Office had accepted a lower back condition under file number 13-0997874. The record contains evidence that the Office previously accepted carpal tunnel syndrome under file number 13-2067641, calcifying tendinitis of the shoulder under file number 13-1178895, a single episode of a major depressive disorder under file number 13-1159595 and a depressive disorder not elsewhere classified under file number 13-1132836.

² The Office pointed out that it was not addressing the neck condition already accepted under file number 13-1178895.

above shoulder height and forward flexion and extension.” A physical examination of the right shoulder revealed supraspinatus-infraspinatus atrophy and “[t]ender at greater tuberosity and bicep.” Dr. Dini reported full motion of the ankles, knees and hips. An examination of the cervical spine revealed tenderness on palpation of the paracervical muscles, flexion of 40 degrees, extension of 34 degrees, right lateral bend of 20 degrees and left lateral bend of 20 degrees. In concluding, Dr. Dini stated that appellant’s “objective findings are consistent with subjective complaints, history and diagnosis.” He recommended that appellant undergo right arthroscopic surgery.

The August 17 and October 5, 2004 progress notes by Dr. Dini contained diagnoses of tendinitis of the right shoulder and right rotator cuff tear and noted that appellant continued to complain of right shoulder pain and limited motion. The September 7, 2004 progress note contained the same diagnoses. Dr. Dini noted that the MRI scan was positive for tendinitis and that right shoulder motion was limited. The October 26, 2004 progress report diagnosed thoracic strain, right shoulder tendinitis and right shoulder rotator cuff tear.

On November 8, 2004 the Office received a letter from appellant requesting the hearing representative to exclude inclusion of her neck, hand and finger conditions as they had been accepted by the Office in prior claims. She attributed her condition to the employing establishment’s failure to supply her with the prescribed adjustable foot stool and chair. Appellant stated that sitting “on a chair too low for me to reach my work properly or having to sit on a carrier’s too high hard chair very well could be a contributing factor in [irritating] my ailments.”

By decision dated December 7, 2004, the Office hearing representative affirmed the January 12, 2004 denial of appellant’s claim. He accepted the employment factors described by appellant but he found that the medical evidence was insufficient to establish her claim. He noted that Dr. Dini provided “no medical rationale explaining how and why” the employment factors caused the diagnosed conditions.³

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act⁴ has the burden of establishing the essential elements of her claim, including the fact that an injury was

³ The Board notes that appellant submitted new medical evidence subsequent to the Office’s decision. However, the Board cannot consider that evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c).

⁴ 5 U.S.C. §§ 8101-8193.

sustained in the performance of duty as alleged⁵ and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁶

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 the 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 diagnosed condition is causally related to the employment factors identified by the claimant.⁷

The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to the claimant's diagnosed condition. To be of probative value, 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.⁸ Additionally, the Board has consistently held that unsigned medical reports are of no probative value⁹ and that any medical evidence upon which the Office relies on to resolve an issue must be in writing and signed by a qualified physician.¹⁰

An award of compensation may not be based on appellant's belief of causal relationship. Neither the fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.¹¹

⁵ *Joseph W. Kripp*, 55 ECAB ____ (Docket No. 03-1814, issued October 3, 2003); *see also Leon Thomas*, 52 ECAB 202, 203 (2001) (when an employee claims that she sustained injury in the performance of duty she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury). *See also* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(q) and (ee) (2002) (occupational disease or illness and traumatic injury defined).

⁶ *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

⁷ *Michael R. Shaffer*, 55 ECAB ____ (Docket No. 04-233, issued March 12, 2004). *See also Solomon Polen*, 51 ECAB 341, 343 (2000).

⁸ *Leslie C. Moore*, 52 ECAB 132 (2000); *see also Ern Reynolds*, 45 ECAB 690 (1994).

⁹ *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁰ *James A. Long*, 40 ECAB 538, 541 (1989).

¹¹ *Phillip L. Barnes*, 55 ECAB ____ (Docket No. 02-1441, issued March 31, 2004); *see also Dennis M. Mascarenas*, *supra* note 6 at 218.

ANALYSIS

It is not disputed that, while working as a clerk, appellant was not provided with an adjustable foot stool and chair. The Board finds, however, that appellant has not submitted sufficient medical evidence to support that her employment duties caused or aggravated her diagnosed condition.

Appellant submitted the progress notes and reports of Dr. Dini, who indicated that she reported “having pain in her right shoulder and upper extremity about three years ago.” He noted that her job duties included “frequent reaching above shoulder height and forward flexion and extension.” He diagnosed right shoulder tendinitis, right shoulder rotator cuff tear, bilateral carpal tunnel syndrome, lumbar strain, left shoulder tendinitis and status post left shoulder arthroscopic surgery. In order to be relevant as to causal relationship, a physician’s report should review those factors of employment identified by the claimant as causing her condition and, taking these factors into consideration, as well as findings upon examination and the medical history, explain how these employment factors caused or aggravated any diagnosed condition and present medical rationale in support of his or her opinion.¹² The Board has held that medical evidence which does not offer any opinion regarding the cause of an employee’s condition is of diminished probative value on the issue of causal relationship.¹³ Dr. Dini did not offer an explanation, based upon his findings on examination, appellant’s medical history and employment-related history by appellant, as to how the diagnosed conditions were caused or aggravated by her employment duties. For this reason, the Board finds that his reports are insufficient to establish that appellant sustained an injury in the performance of duty.

Although Dr. Dini diagnosed tendinitis of the right shoulder and a right shoulder rotator cuff tear and found that her right shoulder motion was limited, he did not attribute the diagnosis or physical findings to appellant’s work activities. As such, these reports are insufficient to establish appellant’s claim.

Appellant also submitted MRI scans of the right shoulder dated June 21, 2001 and August 20, 2004. The June 21, 2001 MRI scan revealed “signal changes noted with the rotator cuff tendon compatible with tendinitis/tendinosis.” The August 20, 2004 MRI scan revealed “mild degeneration of the bursal-sided fibers of the distal supraspinatus tendon without focal tear unchanged from prior study.” However, these diagnostic reports do not provide any history of the development of the right shoulder condition nor address the issue of causal relationship. These reports are of diminished probative value and are insufficient to establish appellant’s claim.¹⁴

¹² *Robert Broome*, 55 ECAB ____ (Docket No. 04-93, issued February 23, 2004).

¹³ *Ellen L. Noble*, 55 ECAB ____ (Docket No. 03-1157, issued May 7, 2004).

¹⁴ See *Anna C. Leanza*, 48 ECAB 115 (1996); *Connie Johns*, 44 ECAB 560 (1993) (the weight of medical opinion evidence is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the physician’s knowledge of the facts and medical history, the care of analysis manifested, and the medical rationale expressed in support of the opinion). See also *Daniel J. Overfield*, 42 ECAB 718 (1991) (medical opinions which are based on an incomplete or inaccurate factual background are entitled to little probative value in establishing a claim).

Appellant provided her own opinion as to the causal relationship of her right shoulder and back condition to factors of her federal employment. However, neither the fact that a disease or condition becomes apparent during a period of employment, nor appellant's belief that the disease or condition is caused or aggravated by the conditions of employment is sufficient to establish causal relation.¹⁵ This is a medical issue. Although numerous reports from Dr. Dini were submitted to the record, they are deficient as the physician did not address the issue of causal relationship.

CONCLUSION

The Board finds that appellant did not submit sufficient rationalized medical evidence to establish her occupational disease claim.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 7, 2004 is affirmed.

Issued: September 6, 2005
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

¹⁵ See *Phillip L. Barnes*, *supra* note 11; *Neal C. Evins*, 48 ECAB 252 (1996); *Ronald M. Cokes*, 46 ECAB 967 (1995).