United States Department of Labor
Employees' Compensation Appeals Board

J.M., Appellant	)	
and	)	**Docket No. 06-2094**
	)	**Issued: January 30, 2007**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Los Angeles, CA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On September 13, 2006 appellant filed a timely appeal from merit decisions of the Office of Workers' Compensation Programs dated March 20 and August 14, 2006 denying his occupational disease claim. 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 he sustained a right wrist condition causally related to factors of his federal employment.

FACTUAL HISTORY

On January 27, 2006 appellant, then a 53-year-old clerk, filed an occupational disease claim alleging that he sustained a sore arm and wrist from casing mail, pushing all-purpose containers and working on delivery bar code sorter (DBCS) machines. He did not stop work. In

an accompanying statement, appellant noted that on October 13, 2005 he experienced pain in his right wrist. The pain began in January 2005 and occurred intermittently. Appellant stated:

> "I was working on the DBCS machine and went home early. I rested to about 10:30 a.m. and the soreness went away. I went to my second job at American Airlines where I work part-time. I was loading bags in the container when my wrist started hurting again."

American Airlines paid him workers' compensation for his October 13, 2005 wrist injury but he believed "that both jobs should have a responsibility for the injury."

In a report dated November 15, 2005, a physician's assistant noted that appellant was employed by American Airlines. The physician's assistant related, "[Appellant] states on October 13, 2005 he hurt his right wrist. [He] states it is his job to load and unload heavy luggage."

By letter dated February 13, 2006, the Office requested additional factual and medical information. Appellant submitted a form report dated February 16, 2006 from Dr. Steven S. Shin, an orthopedic surgeon, who diagnosed a scapholunate ligament tear of the right wrist and listed work restrictions.

By decision dated March 20, 2006, the Office denied appellant's claim on the grounds that the medical evidence did not establish that he sustained a right wrist condition due to factors of his federal employment.

On April 12, 2006 appellant requested a review of the written record.[1] He submitted a March 14, 2006 certification of health care provider form from Dr. Shin, who diagnosed a scapholunate ligament tear resulting in post-traumatic arthritis. He noted that appellant sustained an employment injury on October 13, 2005. Dr. Shin opined that he was currently unable to work.

In a report dated March 20, 2006, Dr. Shin stated:

> "I first saw [appellant] on December 19, 2005 at which time he stated that he developed a sudden pain in his right wrist while loading a bag onto a container at the airport in his job for American Airlines. He stated that this pain occurred on October 13, 2005. [Appellant] did state, however, that he had chronic right wrist pain prior to this acute incident. His chronic wrist pain was for several years prior to this incident. [Appellant] has been working for both the [employing establishment] and American Airlines for the past several years."

Dr. Shin diagnosed scapholunate ligament tear and "significant osteoarthritis in the right wrist." He opined that the osteoarthritis prevented repair of the ligament tear and recommended

[1] Appellant subsequently obtained an attorney, who by letter dated May 26, 2006 requested reconsideration. On June 14, 2006 appellant clarified that he desired a review of the written record.

a right wrist fusion.[2] He attributed 70 percent of appellant's right wrist condition to his job at American Airlines and 30 percent to his job at the employing establishment. Dr. Shin stated, "I believe the causes of [appellant's] right wrist post-traumatic osteoarthritis are due to his occupations involving heavy manual labor at both American Airlines and the [employing establishment]. His diagnosis specifically is right wrist post-traumatic osteoarthritis secondary to complete scapholunate ligament tear."

By decision dated August 14, 2006, an Office hearing representative affirmed the March 20, 2006 decision. The hearing representative found that the medical evidence was insufficient to establish that appellant sustained a wrist condition due to factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[3] 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 limitation; that an injury was sustained while 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.[4] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[5]

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;[6] (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;[7] and (3) medical evidence establishing 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.[8]

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which

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[2] Dr. Shin performed a right wrist arthroscopy on March 20, 2006.

[3] 5 U.S.C. §§ 8101-8193.

[4] *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[5] *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 4.

[6] *Solomon Polen*, 51 ECAB 341 (2000).

[7] *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

[8] *Ernest St. Pierre*, 51 ECAB 623 (2000).

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.[9] The opinion of the physician must be based on a complete factual and medical background of the claimant,[10] must be one of reasonable medical certainty[11] explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[12]

ANALYSIS

Appellant attributed his right wrist condition to pushing all-purpose containers, working on DBCS machines and casing mail. The employing establishment did not dispute that he performed the described job duties. The Board finds that appellant has established the occurrence of the claimed employment factors. The issue, therefore, is whether the medical evidence establishes a causal relationship between the claimed conditions and the identified employment factors.

In a report dated November 15, 2005, a physician's assistant noted appellant's history of a right wrist injury while loading luggage on October 13, 2005 in his job for American Airlines. The reports of a physician's assistant, however, are entitled to no weight as a physician's assistant is not a "physician" as defined by section 8101(2) of the Act.[13]

In a form report dated February 16, 2006, Dr. Shin diagnosed a tear of the scapholunate ligament of the right wrist and listed work restrictions. He did not, however, address the cause of the diagnosed condition. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.[14]

In a form report dated March 14, 2006, Dr. Shin diagnosed a scapholunate ligament tear resulting in post-traumatic arthritis. He noted appellant's history of an employment injury on October 13, 2005 and found that he was disabled from work. As Dr. Shin did not attribute appellant's scapholunate tear to his federal employment, his opinion is insufficient to meet his burden of proof.

In a report dated March 20, 2006, Dr. Shin diagnosed post-traumatic osteoarthritis of the right wrist due to a scapholunate ligament tear. He described appellant's history of sudden right wrist pain on October 13, 2005 while loading luggage during his private employment with American Airlines. Appellant experienced wrist pain a few years prior to the October 13, 2005 incident. Dr. Shin concluded that his osteoarthritis was causally related to "his occupations

[9] *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

[10] *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

[11] *John W. Montoya*, 54 ECAB 306 (2003).

[12] *Judy C. Rogers*, 54 ECAB 693 (2003).

[13] *See* 5 U.S.C. § 8101(2); *Allen C. Hundley*, 53 ECAB 551 (2002).

[14] *Conrad Hightower*, *supra* note 9.

involving heavy manual labor at both American Airlines and the [employing establishment]." The physician did not, however, identify any of the job duties appellant performed at the employing establishment which he believed were responsible for appellant's wrist condition or explain how his work duties at the employing establishment caused or contributed to his osteoarthritis. Medical reports not containing rationale on causal relationship are entitled to little probative value.[15] Such rationale is particularly necessary in this case given that appellant injured his wrist on October 13, 2005 while lifting luggage in private employment. As Dr. Shin's opinion regarding the relationship between appellant's wrist condition and his federal employment duties is conclusory and unexplained, it is insufficient to meet his burden of proof.[16]

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between his claimed condition and his employment.[17] To establish causal relationship, he must submit a physician's report in which the physician reviews the employment factors identified as causing his condition and, taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.[18] Appellant failed to submit such evidence in this case and, therefore, has failed to discharge his burden of proof to establish that he sustained an employment-related right wrist condition.

CONCLUSION

The Board finds that appellant has not established that he sustained a right wrist condition causally related to factors of his federal employment.

[15] *Mary E. Marshall*, 56 ECAB ___ (Docket No. 04-1048, issued March 25, 2005).

[16] *See Beverly A. Spencer*, 55 ECAB 501 (2002).

[17] *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glenn*, 53 ECAB 159 (2001).

[18] *Calvin E. King*, 51 ECAB 394 (2000).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated August 14 and March 20, 2006 are affirmed.

Issued: January 30, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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