

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

S.M., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,
Miami, FL, Employer

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**Docket No. 06-2099
Issued: January 16, 2007**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 13, 2006 appellant filed a timely appeal from an Office of Workers' Compensation Programs' July 13, 2006 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 met her burden of proof to establish that she sustained a left elbow condition in the performance of duty.

FACTUAL HISTORY

On April 17, 2006 appellant, a 45-year-old distribution clerk, filed a Form CA-2a claim for benefits, alleging that she sustained a recurrence of disability as of April 9, 2006 causally related to a January 14, 2006 left elbow injury.

In support of her claim, appellant submitted a February 8, 2006 report from Dr. Daniel G. Kalbac, a Board-certified orthopedic surgeon, who stated that appellant related left elbow pain and soreness after lifting some metal trays or boxes. Dr. Kalbac indicated that there were no previous elbow problems. He diagnosed lateral epicondylitis of the left elbow. Dr. Kalbac noted that appellant was on light duty with restrictions of no lifting exceeding 10 pounds with the left upper extremity. The record includes a copy of appellant's March 4, 2006 acceptance of light duty, with restrictions on lifting more than 10 pounds and overtime work consisting of casing trays of flats.

By letter dated May 8, 2006, the Office informed appellant that, based on the information it had received, it did not consider her claim as one for a recurrence of disability. The Office advised appellant that it would adjudicate her claim as a new injury.

By letter dated May 26, 2006, 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. The physician was asked to address whether her diagnosed condition of left elbow epicondylitis was causally related to her federal employment. The Office requested that appellant submit the additional evidence within 30 days.

Appellant submitted reports dated May 16 and June 9, 2006 from Dr. Kalbac who essentially reiterated his previous findings, conclusions and diagnosis.

By decision dated July 13, 2006, the Office denied appellant's claim, finding that she failed to submit medical evidence sufficient to establish that she sustained a left elbow condition in the performance of duty.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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.² 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.³

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

¹ 5 U.S.C. §§ 8101-8193.

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

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

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 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.⁴

A claimant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her claimed cervical 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.⁵

ANALYSIS

The Board finds that appellant has failed to submit medical evidence containing a rationalized, probative opinion which relates her claimed left elbow 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.

In support of her claim, appellant submitted the February 8, May 16 and June 9, 2006 reports from Dr. Kalbac. These reports, however, did not address how her diagnosed left epicondylitis condition was causally related to employment factors. Dr. Kalbac related that appellant had experienced left elbow pain and soreness after lifting some metal trays or boxes and indicated that there were no previous elbow problems. He also indicated that appellant had been placed on light duty with restrictions of no lifting exceeding 10 pounds and no lifting cases or flats of mail. However, Dr. Kalbac did not explain how appellant's duties as a mail clerk would cause or contribute to her left elbow condition. The mere fact that appellant was asymptomatic of prior elbow problems or that the condition manifested itself during a period of employment does not raise an inference of causal relation.⁶ His opinion is of limited probative value as it does not contain medical rationale explaining how or why appellant's left elbow condition was currently affected by or related to factors of her employment.⁷

⁴ *Id.*

⁵ See *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

⁶ See *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁷ *William C. Thomas*, 45 ECAB 591 (1994).

The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the 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.⁸ Dr. Kalbac's opinion is of diminished probative value for the further reason that it is generalized in nature and equivocal in that he was not able to state conclusively that appellant's left elbow condition was causally related to her employment. The Office properly found that appellant did not sustain a left elbow 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.⁹ Causal relationship must be established by rationalized medical opinion evidence. The Office advised appellant of the medical evidence required to establish her claim. However, she failed to submit such evidence. Accordingly, the Office properly denied appellant's claim for compensation based on a left epicondylitis condition.

CONCLUSION

The Board finds that appellant has failed to meet her burden of proof to establish that her left elbow condition was sustained in the performance of duty.

⁸ See *Anna C. Leanza*, 48 ECAB 115 (1996).

⁹ See *id.*

ORDER

IT IS HEREBY ORDERED THAT the July 13, 2006 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: January 16, 2007
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board