

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

C.B., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Houston, TX, Employer)

**Docket No. 07-696
Issued: June 19, 2007**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 17, 2007 appellant filed a timely appeal from a December 19, 2006 merit decision of the Office of Workers' Compensation Programs denying her 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 she sustained a left shoulder condition causally related to factors of her federal employment.

FACTUAL HISTORY

On November 1, 2006 appellant, then a 50-year-old mail handler, filed an occupational disease claim alleging that she sustained a frozen shoulder and tendinitis due to performing repetitive work in the course of her federal employment. She did not stop work.

In a report dated October 25, 2006, Dr. Allen Deutsch, a Board-certified orthopedic surgeon, discussed appellant's complaints of left shoulder pain and noted that she performed

repetitive lifting for the employing establishment. He diagnosed mild frozen shoulder syndrome with tendinitis and rotator cuff impingement syndrome. Dr. Deutsch recommended physical therapy. In a return to work form dated October 25, 2006, he opined that appellant could resume work on October 28, 2006 with left shoulder restrictions.

On October 31, 2006 appellant related that she injured her shoulder lifting a tub onto a shelf on October 18, 2006. She experienced pain on October 28, 2006 and went to a physician, who told her that it was due to her employment.

In a progress report dated November 8, 2006, Dr. Deutsch noted some improvement in range of motion and again recommended physical therapy for frozen shoulder. In a state workers' compensation work status report dated November 8, 2006, he listed work restrictions for the left shoulder.

On November 13, 2006 the Office requested additional factual and medical information from appellant, including a comprehensive medical report from her attending physician addressing causal relationship. In a statement dated November 17, 2006, appellant described in detail her work duties and history of pain from the left side of her neck through her upper arm and elbow beginning October 18, 2006. In an additional statement received November 27, 2006, she related that she began experiencing left shoulder, neck and upper arm pain on October 18, 2006. Appellant described her work duties and stated, "The repetitive motion of my left arm has caused me to feel pain in my left side of my neck, down to my left shoulder and down to my upper left arm."

By decision dated December 19, 2006, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that she sustained a medical condition causally related to the accepted work factors.

LEGAL PRECEDENT

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

¹ 5 U.S.C. §§ 8101-8193.

² *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *See Ellen L. Noble*, 55 ECAB 530 (2004).

presence or existence of the disease or condition for which compensation is claimed;⁴ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁵ 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.⁶

The medical evidence required to establish causal relationship generally is rationalized medical opinion 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.⁷ The opinion of the physician must be based on a complete factual and medical background of the claimant,⁸ must be one of reasonable medical certainty⁹ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰

ANALYSIS

Appellant attributed her left shoulder condition to performing repetitive work in the course of her federal employment. She submitted a detailed statement describing her repetitive work duties. The Office accepted 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 October 25, 2006, Dr. Deutsch discussed appellant's complaints of left shoulder pain and noted that she performed repetitive work for the employing establishment. He diagnosed mild frozen shoulder syndrome with tendinitis and rotator cuff impingement syndrome. Dr. Deutsch listed work restrictions for the left shoulder in an accompanying return to work report. He did not, however, specifically address the cause of the diagnosed conditions of frozen shoulder syndrome, tendinitis and rotator cuff impingement syndrome. 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.¹¹

⁴ *Michael R. Shaffer*, 55 ECAB 386 (2004).

⁵ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

⁶ *Beverly A. Spencer*, 55 ECAB 501 (2004).

⁷ *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁸ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁹ *John W. Montoya*, 54 ECAB 306 (2003).

¹⁰ *Judy C. Rogers*, 54 ECAB 693 (2003).

¹¹ *Conrad Hightower*, *supra* note 7.

In a progress report dated November 8, 2006, Dr. Deutsch found that appellant's range of motion of the left shoulder had improved. In a form report of the same date, he listed work restrictions for the left shoulder. As Dr. Deutsch did not address the cause of appellant's frozen shoulder or the listed work restrictions, his opinion is of little probative value.¹²

An award of compensation may not be based on surmise, conjecture or speculation of appellant's own belief that there is a causal relationship between her claimed condition and her employment.¹³ She must submit a physician's report in which the physician reviews those factors of employment identified as causing her condition and, taking these factors into consideration as well as findings upon examination and the medical history, explain how employment factors caused or aggravated any diagnosed condition and present medical rationale in support of his or her opinion.¹⁴ Appellant failed to submit such evidence and therefore failed to discharge her burden of proof.

CONCLUSION

The Board finds that appellant has not established that she sustained a left shoulder condition causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 19, 2006 is affirmed.

Issued: June 19, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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

¹² *Id.*

¹³ *Patricia J. Glenn*, 53 ECAB 159 (2001).

¹⁴ *Robert Broome*, 55 ECAB 339 (2004).