

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

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C.L., Appellant )

and )

U.S. POSTAL SERVICE, POST OFFICE, )  
Fredonia, PA, Employer )

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**Docket No. 08-889  
Issued: August 22, 2008**

*Appearances:*

*Tedd C. Nesbit, Esq.*, for the appellant  
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On January 30, 2008 appellant filed a timely appeal from an Office of Workers' Compensation Programs' November 2, 2007 merit decision which affirmed the denial of her claim for compensation. 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 in establishing that she sustained an injury in the performance of duty on April 6, 2007.

**FACTUAL HISTORY**

On May 21, 2007 appellant, then a 52-year-old rural carrier associate, filed a Form CA-1, traumatic injury claim, alleging that on April 6, 2007 she injured her right hand and right thumb when a metal mailbox lid struck her right thumb on the knuckle. She first received medical care for her injury on May 16, 2007. Appellant stopped work on May 18, 2007.

In a May 29, 2007 letter, the employing establishment advised that appellant had reported an injury to her right hand when a mailbox lid closed on her right hand on April 6, 2007.

By letter dated June 7, 2007, the Office advised appellant of the factual and medical evidence needed to establish her claim. It requested that she submit a comprehensive medical report from her treating physician which included a reasoned explanation as to how the specific work factors or incidents identified by appellant had contributed to her claimed injury.

Appellant submitted prescription slips dated May 16 and June 1, 2007 from Dr. John J. Schibli, a general practitioner, who stated that appellant had tendinitis and would be off work May 18 through 26, 2007. On June 1, 2007 Dr. Schibli diagnosed tendinitis of the right thumb, anti-inflammatory medication was being taken and that she would be off work until June 21, 2007.

By decision dated July 11, 2007, the Office denied the claim on the grounds that the medical evidence was not sufficient to establish that she sustained an injury related to the April 6, 2007 work incident.

On July 18, 2007 appellant requested a review of the written record. She submitted a June 12, 2007 factual statement and additional medical evidence.

In a May 31, 2007 progress note, Dr. Schibli reported that appellant was being evaluated for an injury to her right thumb. Appellant reported that on April 6, 2007, while working as rural mail carrier, a mailbox lid fell down, striking the knuckle and forefinger of her right hand causing some swelling. She also reported that she was employed only on weekends and did not work the weekends of May 18, 19, 25 and 26, 2007 due to swelling and pain. Dr. Schibli noted some erythema and edema of the metacarpal joint of the thumb and diagnosed tendinitis secondary to contusion of the right thumb. He advised appellant to stay off work for two to three weeks until a follow-up appointment. On June 26, 2007 Dr. Schibli opined that appellant could return to light duty with restrictions.

In a July 17, 2007 report, Dr. Schibli outlined appellant's medical progress, noting that physical examination showed some swelling over the dorsum of the thumb. He recommended that she remain on restrictions for another three weeks. Dr. Schibli opined that appellant's injury was caused by the described April 6, 2007 incident. Additional progress reports dated July 17 to October 9, 2007 were submitted. On September 6, 2007 Dr. Robert A. Kaufmann, a Board-certified orthopedic surgeon, advised that appellant could return to light-duty work with restrictions in three weeks. An August 22, 2007 magnetic resonance imaging (MRI) scan was also provided.

By decision dated November 2, 2007, an Office hearing representative affirmed the denial of appellant's claim.

## LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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 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 disabilities and/or specific conditions 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 determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a fact of injury has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>4</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>5</sup>

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>6</sup> Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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>7</sup> Neither the mere 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 causal relationship.<sup>8</sup>

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<sup>1</sup> 5 U.S.C §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> *Id.*

<sup>6</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>7</sup> *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>8</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

## ANALYSIS

Appellant filed a claim alleging that she injured her right thumb on April 6, 2007 when a metal mailbox lid struck her right thumb on the knuckle. The employing establishment acknowledged that she had reported the incident and the Office accepted that the April 6, 2007 incident occurred at the time, place and in the manner alleged. The Board must consider whether appellant sustained an injury causally related to the April 6, 2007 employment incident, an issue which is medical in nature.<sup>9</sup>

The Board finds that appellant did not submit sufficient medical evidence from an attending physician addressing how the April 6, 2007 mailbox lid incident caused or contributed to the claimed injury.

Appellant submitted medical records from Dr. Schibli who provided a history of injury and diagnosed a contusion to the right thumb with tendinitis. However, Dr. Schibli did not address how the April 6, 2007 employment incident contributed to her diagnosed conditions.<sup>10</sup> In a July 17, 2007 report, he reiterated that appellant's right thumb condition was caused by the April 6, 2007 incident; however, his opinion is conclusory and he offered no rationale to support his finding.<sup>11</sup> Dr. Schibli did not explain the processes by which impact from the mailbox lid on appellant's thumb on April 6, 2007 would cause or aggravate the diagnosed tendinitis, first diagnosed on May 16, 2007. He did not provide a full history or address any preexisting condition. The evidence from Dr. Schibli is therefore of diminished probative value.

The remaining medical evidence of record does not support appellant's claim. The September 6, 2007 note from Dr. Kaufmann failed to provide a diagnosis or address causal relationship. The August 22, 2007 MRI scan report does not contain any opinion on causal relationship, and is of diminished probative value.

The Office procedures recognize that in clear-cut traumatic injury claims, such as a fall resulting in a broken arm, a physician's affirmative statement is sufficient and no rationalized opinion on causal relationship is needed.<sup>12</sup> However, the facts of this case do not provide for such a conclusion. Appellant sought medical treatment on May 16, 2007, some six weeks after the April 6, 2007 work incident. The evidence submitted does not provide a reasoned medical opinion on causal relation between the diagnosed conditions and the accepted work incident.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the mere fact that appellant's condition became apparent during a period of employment

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<sup>9</sup> See *Jerre R. Rinehart*, 45 ECAB 518 (1994).

<sup>10</sup> *A.D.*, 58 ECAB \_\_\_ (Docket No. 06-1183, issued November 14, 2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

<sup>11</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

<sup>12</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d) (July 2000).

nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.<sup>13</sup> Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office therefore properly denied her claim for compensation.

**CONCLUSION**

The Board finds that appellant did not meet her burden of proof in establishing that she sustained an injury causally related to her April 6, 2007 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 2, 2007 is affirmed.

Issued: August 22, 2008  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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

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<sup>13</sup> *Dennis M. Mascarenas, supra* note 8.