

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

S.P., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Albuquerque, NM, Employer**

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**Docket No. 07-1747
Issued: January 25, 2008**

Appearances:

Alan J. Shapiro, Esq., for the appellant

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge

DAVID S. GERSON, Judge

JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 20, 2007 appellant timely appealed a merit decision of the Office of Workers' Compensation Programs' dated May 17, 2007, denying her claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this claim.

ISSUE

The issue is whether appellant has established a left upper extremity condition causally related to factors of her federal employment.

FACTUAL HISTORY

On January 9, 2006 appellant, then a 49-year-old rural mail carrier, filed an occupational disease claim (Form CA-2) alleging that the pain in her left shoulder and left elbow and her left carpal tunnel condition were causally related to her federal employment. She indicated that her job involved continuous pushing, pulling and lifting. Appellant reported that she became aware of her condition on January 24, 2004 and realized it was caused or aggravated by her

employment on December 6, 2005. She stopped work on December 27, 2005 and has not returned.

By letters dated January 30, 2006, the Office advised appellant and the employing establishment that additional factual and medical evidence was needed.

Appellant submitted a narrative statement describing her duties and symptoms. She noted that she had been on limited duty because of a right shoulder and right elbow surgery and had to use her left arm as a result of those surgeries. Appellant submitted a March 7, 2006 Physical Work Performance Evaluation Summary and Functional Capacity Evaluation (FCE) and a March 13, 2006 report from Dr. David A. Bernstein, a Board-certified orthopedic surgeon, which reported on appellant's right arm condition.

In a March 1, 2006 report, Dr. Robert P. Vitek, Board-certified in occupational medicine, reported on the medical history of appellant's left arm complaints. He advised that she had tendinitis of the left arm and left carpal tunnel syndrome based on a July 7, 2005 electromyogram (EMG).

By decision dated March 27, 2006, the Office denied appellant's claim. It found that the medical evidence did not demonstrate that the claimed medical condition was related to established work-related events.

On March 26, 2007 appellant requested reconsideration of the Office's March 27, 2006 decision.

In a March 20, 2007 medical report, Dr. Vitek addressed the cause of appellant's left hand carpal tunnel. He stated: "It is my understanding that the patient does a lot of activities with her left upper extremity, especially the hand, as well as the right hand and I would consider the symptoms that she had and still has of the left upper extremity to be related to her job."

By decision dated May 17, 2007, the Office reviewed the case on its merits and denied modification of the March 27, 2006 decision.

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 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

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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 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, 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. 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

ANALYSIS

Appellant alleged that her job duties as a rural mail carrier, which involved continuous pushing, pulling and lifting, caused or contributed to her left upper extremity conditions of left hand carpal tunnel and pain in her left shoulder and left elbow. The employing establishment did not contest that appellant engaged in the identified activities during her federal employment and the Office accepted that such work-related events were established. However, the medical evidence is insufficient to establish that appellant's diagnosed left upper extremity conditions are causally related to the identified work factors or any other specific factors of her federal employment.

In his March 13, 2006 report, Dr. Bernstein reported on appellant's right upper extremity condition. This evidence, however, is not relevant to the current claim which pertains to a left upper extremity condition.

Appellant submitted medical reports dated March 1, 2006 and March 20, 2007 from Dr. Vitek. In his March 1, 2006 report, Dr. Vitek diagnosed tendinitis of the left upper extremity and left carpal tunnel syndrome. However, he did not specifically address whether any factors of appellant's employment caused or contributed to her conditions.⁵ In Dr. Vitek's March 20, 2007 report, he noted that appellant did a lot of activities with her left upper extremity and opined that

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

⁴ *Id.*

⁵ *Linda I. Sprague*, 48 ECAB 386 (1997) (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).

he considered the symptoms she had and still has of the left upper extremity to be related to her job. However, the Board notes that Dr. Vitek did not specifically address what factors of appellant's employment caused or contributed to her left upper extremity symptoms or provide any medical rationale to explain his conclusion on causal relationship. Medical conclusions unsupported by medical rationale are of diminished probative value and are insufficient to establish causal relation.⁶ Consequently, the medical evidence from Dr. Vitek is insufficient to establish appellant's claim.

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁷ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁸ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

There is no reasoned medical evidence addressing how appellant's employment duties caused or aggravated a left upper extremity condition. She has not met her burden of proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of her employment.

⁶ *Albert C. Brown*, 52 ECAB 152 (2000).

⁷ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁸ *Id.*

CONCLUSION

The Board finds that appellant did not submit medical evidence of sufficient probative value to establish a left upper extremity condition causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs decision dated May 17, 2007 is affirmed.

Issued: January 25, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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