

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

M.E., Appellant)	
)	
and)	Docket No. 08-558
)	Issued: June 18, 2008
)	
U.S. POSTAL SERVICE, POST OFFICE,)	
St. Louis, MO, Employer)	
)	

Appearances:
Appellant, pro se
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 December 19, 2007 appellant filed a timely appeal from an Office of Workers' Compensation Programs' merit decision dated October 3, 2007 which denied her occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant has established that she developed osteoarthritis of the back, hips, knees and ankles in the performance of duty.

FACTUAL HISTORY

On July 2, 2007 appellant, then a 57-year-old supervisor, filed an occupational disease claim alleging that she developed osteoarthritis of the back, hips, knees and ankles as a result of walking, standing and bending required in her position. She became aware of her condition on August 1, 1996 and of the relationship of her condition to her work duties on June 2, 2003. Appellant stopped work on April 6, 2007 and retired on July 1, 2007.

Appellant submitted a statement dated August 8, 2007, noting that from 1989 to 1997 she worked as a supervisor and was exposed to extremely cold temperatures while performing her work duties. She subsequently developed pneumonia and osteoarthritis in her hips, knees, back and ankle. As a supervisor, appellant was required to walk, stand and bend during her entire shift and could no longer perform these duties without severe pain. In support of her claim, she submitted return to work slips dated February 2 to June 4, 2007 from Dr. Shankar Rao, a Board-certified family practitioner and psychiatrist, who noted that appellant was a patient under his care and, due to medical reasons, she was disabled from work from January 1 to March 11, 2007 to return effective March 12, 2007. On March 12, 2007 Dr. Rao noted that appellant was unable to work from March 12 to April 9, 2007 and could return to work on April 10, 2007. On June 4, 2007 he noted that appellant was unable to work from April 10 to June 30, 2007 and would be evaluated for a determination as to a return to work date. Appellant also submitted a list of her treating physicians.

By letter dated August 15, 2007, the Office advised appellant of the factual and medical evidence needed to establish her claim. It requested that she submit a physician's reasoned opinion addressing the relationship of her claimed condition to specific employment factors.

Appellant submitted a statement dated September 25, 2007, advising that her physician informed her that her diagnosed osteoarthritic condition could have been caused by working in a cold environment and to walking six to seven hours a day, six to seven days a week. She also submitted statements from former coworkers.

In a decision dated October 3, 2007, the Office denied appellant's claim for compensation. It accepted that the work events and exposures occurred; however, the medical evidence did not establish that she developed any diagnosed condition or injury causally related to these factors. The Office noted that the disability slips of Dr. Rao did not provide any definite diagnosis for appellant's symptoms or discuss the causal relationship with the implicated employment factors.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act 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 the 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. 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.¹

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) factual statement identifying employment factors alleged to have caused or contributed to the presence

¹ Gary J. Watling, 52 ECAB 357 (2001).

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 claimant. The medical evidence required to establish causal relationship is generally 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.²

ANALYSIS

It is not disputed that appellant's duties as a supervisor included walking, standing, bending and stooping. However, she has not submitted sufficient medical evidence to support that her claimed conditions of osteoarthritis of the back, hips, knees and ankles was caused or contributed related to by the employment factors or conditions. Appellant did not submit a rationalized medical report from an attending physician addressing how specific employment factors may have caused or aggravated her claimed conditions.

Appellant submitted work slips from Dr. Rao, who noted that she was a patient under his care and, due to medical reasons, she was incapacitated and would be off work from January 1 to June 30, 2007. Dr. Rao advised that appellant would be evaluated for a determination as to a return to work date. However, these notes do not provide a firm diagnosis of a medical condition,³ note a history of injury,⁴ or offer any opinion on how appellant's employment could have caused or aggravated her conditions.⁵ Consequently, these reports are of limited probative value and do not establish her claim.

Appellant's burden of proof includes the submission of rationalized medical opinion evidence, based on a complete factual and medical background, supporting a causal relationship between the employment and the diagnosed condition. Therefore, this evidence is insufficient to meet her burden of proof. Because appellant has not submitted reasoned medical explaining how

² *Solomon Polen*, 51 ECAB 341 (2000).

³ *See Deborah L. Beatty*, 54 ECAB 340 (2003) (where the Board found that in the absence of a medical report providing a diagnosed condition and a reasoned opinion on causal relationship with the employment incident, appellant did not meet her burden of proof).

⁴ *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history have little probative value).

⁵ *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).

and why her osteoarthritis of the back, hips, knees and ankles is employment related, she has not met her burden of proof.

CONCLUSION

The Board finds that appellant did not establish her occupational disease claim.

ORDER

IT IS HEREBY ORDERED THAT the October 3, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 18, 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