

In support of her claim, appellant submitted treatment notes from Dr. Gregory L. Hummel, a Board-certified orthopedic surgeon. On November 30, 2006 Dr. Hummel explained that appellant reported left elbow pain “after she took a fall.” He noted that appellant’s complaints of pain were not localized over a particular impact area but involved the entire lateral epicondyle generally. Dr. Hummel stated that she “does a lot of repetitive activity in her job” with the employing establishment. In a May 8, 2007 treatment note, he diagnosed left elbow lateral epicondylitis and noted that appellant’s symptoms had “dramatically recurred.” Upon examination, Dr. Hummel found marked tenderness and aggravated soft tissue swelling over the lateral epicondyle, with resisted wrist greater than finger extension, but noted that x-ray testing was normal. In a May 8, 2007 disability note, he indicated that appellant would be unable to work for a minimum of six to eight weeks due to her recurrent left elbow lateral epicondylitis and stated that she would ultimately need surgery.

By correspondence dated June 13, 2007, the Office requested additional information concerning appellant’s claim.

In response to the Office’s request for information, appellant submitted an undated statement. She initially experienced left elbow pain in August 2006 when she bumped it on a case of mail at work. Appellant stated that, after she bumped her elbow, she noticed a sharp pain whenever she attempted to grip items while casing or delivering mail. She indicated that she bumped her elbow a second time in a falling incident at home in November 2006. Appellant attributed her continuing symptoms to repetitive gripping while casing and delivering mail.

In a June 5, 2007 note, Dr. Hummel released appellant to return to light-duty work. He reported that she could not use her left arm. On June 26, 2007 Dr. Hummel indicated that appellant could case mail with limited use of her left arm and would be able to return to full duty effective July 12, 2007.

By decision dated July 25, 2007, the Office denied appellant’s claim on the grounds that the medical evidence of record did not establish that her diagnosed condition was causally related to factors of her employment.

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 disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.²

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

An occupational disease or injury is one caused by specified employment factors occurring over a longer period than a single shift or workday.⁴ The test for determining whether appellant sustained a compensable occupational disease or injury is three-pronged. To establish the factual elements of the claim, appellant must submit: “(1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the 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 factors identified by the claimant.”⁵

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.⁶ The opinion of the physician must be based on a complete factual and medical background of the claimant⁷ and must be one of reasonable medical certainty⁸ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that she developed an occupational disease in the performance of duty. The record establishes that appellant gripped mail as part of her job. However, the medical evidence is insufficient to establish that this or any other employment factor caused or aggravated her claimed tendinitis or other diagnosed condition.

In support of her claim, appellant submitted treatment notes from Dr. Hummel, who did not provide a clear diagnosis and was unable to establish a clear etiology for appellant’s condition. In a November 30, 2006 note, Dr. Hummel indicated that appellant had reported

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

⁴ *D.D.*, 57 ECAB 734 (2006).

⁵ *Michael R. Shaffer*, 55 ECAB 386, 389 (2004), citing *Lourdes Harris*, 45 ECAB 545 (1994); *Victor J. Woodhams*, *supra* note 3.

⁶ *Conard Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁷ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁸ *John W. Montoya*, 54 ECAB 306 (2003).

⁹ *Judy C. Rogers*, 54 ECAB 693 (2003).

sustaining her left elbow injury in a fall, but that her pain was not localized over a specific impact area but rather generalized over the entire lateral epicondyle. He also indicated that appellant performed repetitive activities at work, but did not specifically enumerate appellant's repetitive motion activities or discuss any of appellant's claimed employment factors as a cause of a diagnosed condition. The Board finds that Dr. Hummel's November 30, 2006 report does not provide a well-rationalized medical opinion clearly identifying and explaining a causal relationship between the ultimately diagnosed left lateral epicondylitis and any factors of appellant's employment.¹⁰ Dr. Hummel's May 8, 2007 treatment note diagnosed left elbow lateral epicondylitis, but did not provide any opinion on causal relationship. The Board has held that a medical report that does not offer an opinion on causal relationship is not probative on that issue.¹¹ Dr. Hummel's May 8, June 5 and June 26, 2007 notes concerning appellant's work status, similarly, did not address causal relationship and therefore are not probative or effective in establishing appellant's claim. Accordingly, the Board finds that appellant has not met her burden of proof in establishing that she developed an occupational disease in the performance of duty, because she has not established a causal relationship between her diagnosed left lateral epicondylitis and factors of her employment.¹²

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she developed an occupational disease in the performance of duty.

¹⁰ *Id.*

¹¹ *See 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).

¹² Following issuance of the Office's July 25, 2007 decision, appellant submitted additional evidence to the Office. However, the Board may not consider such evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the July 25, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 13, 2008
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