

FACTUAL HISTORY

On June 25, 2007 appellant a 51-year-old registered nurse, filed a traumatic injury claim for right arm tendinitis. She stated that she was injured while pushing a medication cart on June 3, 2007. Appellant previously reported a similar injury to her right upper extremity in March 2007.² She also reported having received treatment in a hospital emergency room in Berea, Kentucky. However, appellant did not provide the emergency room treatment records. The employing establishment challenged appellant's claim for a June 3, 2007 right arm injury.

On June 4, 2007 Dr. Omar S. Khokhar, a Board-certified pathologist, placed appellant on light duty. No diagnosis was offered at the time. On June 18, 2007 Dr. Khokhar diagnosed tendinitis and excused appellant from all work during the period June 10 to 23, 2007. He advised that appellant could return to work on June 25, 2007. As to the type of work appellant could perform, he simply referred to his previous "script."

Upon returning to work on June 25, 2007, the employing establishment assigned appellant to light duty. Appellant performed some computer work and was instructed to work behind the desk on an admission. However, she was observed exceeding her restrictions when she assisted another employee in transferring a resident-patient from a chair into a whirlpool tub.

In accordance with Dr. Khokhar's June 18, 2007 instructions, the employing establishment provided appellant a written light-duty assignment on June 28, 2007. Appellant was to perform sedentary tasks only and no physical exertion. She would later resign her nursing position effective July 11, 2007.

In a decision dated August 6, 2007, the Office denied appellant's claim on the basis that she did not establish that she sustained an injury as alleged. The Office explained that it was unclear from the record how appellant's alleged injury occurred. Additionally, the Office found there was no medical evidence establishing a diagnosed condition as a result of the alleged June 3, 2007 employment incident.

Appellant requested an oral hearing, which she later changed to a review of the written record. She also submitted an October 21, 2007 report from Dr. Khokhar, who first treated appellant for tendinitis on April 9, 2007, following a March 30, 2007 employment injury. Dr. Khokhar stated that appellant's job required her to push and pull a hard rubber-wheeled medication cart on the ward of her unit. He further stated that her injury occurred "pushing the cart on a lively evening while dispensing medication." Dr. Khokhar indicated that he diagnosed tendinitis based on appellant's symptoms of radiating shoulder pain, forearm pain and numbness in three digits of the affected arm. He recommended light-duty work, prescribed pain medication and advised appellant to rest. Dr. Khokhar also recommended physical therapy. After releasing appellant to light duty, she reportedly informed Dr. Khokhar that pushing and pulling the medication cart remained part of her nursing duties. Dr. Khokhar concluded that appellant had an employment-related condition. He also explained that he had treated appellant for over 20 years and this was the first diagnosis of this type of injury. Dr. Khokhar stated that he was sure

² Appellant previously filed a claim for a March 30, 2007 traumatic injury, which the Office denied on May 30, 2007 (02-2527854).

of the diagnosis of tendinitis and equally certain that the condition was caused by appellant's working duties. He further noted that appellant had been treated in a Kentucky emergency room for an exacerbation of her condition.

By decision dated January 30, 2008, the Office hearing representative found that, while appellant established fact of injury, she failed to demonstrate that her tendinitis was causally related to the June 3, 2007 employment incident.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.⁴

ANALYSIS

The Office hearing representative accepted that appellant was pushing a medication cart in the performance of duty on June 3, 2007. She also acknowledged that appellant's physician diagnosed tendinitis. According to the hearing representative, the evidence was sufficient to establish "fact of injury."⁵ However, an employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.⁶

Dr. Khokhar diagnosed employment-related right arm tendinitis, but he did not specifically attribute appellant's right arm condition to the June 3, 2007 employment incident. The June 4 and 18, 2007 prescription pad notes Dr. Khokhar submitted did not address the etiology of appellant's condition. In fact, the June 4, 2007 note did not even include a diagnosis. And while the doctor's October 21, 2007 report unequivocally attributed appellant's tendinitis to

³ 5 U.S.C. §§ 8101-8193 (2000).

⁴ 20 C.F.R. § 10.115(e), (f) (2008); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

⁵ To determine if an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. *Elaine Pendleton*, 40 ECAB 1143 (1989). The second component is whether the employment incident caused a personal injury. *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

her employment, Dr. Khokhar did not specifically reference the June 3, 2007 employment incident. In this latest report, he described an injury that purportedly occurred on March 30, 2007 when appellant was “pushing the cart on a lively evening while dispensing medication.” While appellant advised Dr. Khokhar that she continued to work with the medication cart following her March 30, 2007 injury, he did not describe a specific incident on June 3, 2007 that either caused or contributed to appellant’s tendinitis. Even if one assumes certain similarities between the events of March 30 and June 3, 2007, Dr. Khokhar nonetheless failed to explain how pushing a rubber-wheeled medication cart on a so-called “lively evening” caused appellant’s right arm tendinitis. The Board finds that the current record does not include a sufficiently documented and rationalized medical opinion on causal relationship. Accordingly, the Office hearing representative properly denied appellant’s June 3, 2007 traumatic injury claim.

CONCLUSION

Appellant failed to establish a causal relationship between the June 3, 2007 employment incident and her right arm tendinitis.

ORDER

IT IS HEREBY ORDERED THAT that the January 30, 2008 decision of the Office of Workers’ Compensation Programs is affirmed.

Issued: September 4, 2008
Washington, DC

David S. Gerson, Judge
Employees’ Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees’ Compensation Appeals Board

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