

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

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A.B., Appellant	)	
	)	
and	)	<b>Docket No. 09-175</b>
	)	<b>Issued: July 6, 2009</b>
U.S. POSTAL SERVICE, POST OFFICE,	)	
Oklahoma City, OK, Employer	)	
	)	

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*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On October 19, 2008 appellant filed a timely appeal of the Office of Workers' Compensation Programs' decision dated September 19, 2008 denying his claim for compensation. Pursuant to 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 his burden of proof in establishing that he sustained a traumatic injury on January 18, 2008 in the performance of duty.

**FACTUAL HISTORY**

On February 12, 2008 appellant, then a 54-year-old mail handler, filed a traumatic injury claim alleging that on January 18, 2008 he developed pain in his neck and shoulders after pushing and pulling a postal container that caught on a broken and uneven floor. He did not stop work.

Appellant sought treatment from Dr. Sadiq Ali Shakir, a Board-certified internist, on February 19, 2008. Dr. Shakir indicated that appellant was injured on the job on January 18, 2008. He suspected that appellant had tendinitis of the left shoulder and left wrist and arm. Dr. Shakir advised that appellant not work for seven days. On March 11, 2008 he reiterated appellant's diagnosis of tendinitis of the shoulder, left arm and wrist. Dr. Shakir also recommended light duty for one month.

In a March 12, 2008 form report, Dr. Shakir responded to the employing establishment questions regarding appellant's condition and work restrictions. He checked boxes on the form report to indicate that all of appellant's work restrictions were due to his claimed employment injury and that appellant had no preexisting limitations or nonwork-related conditions. Dr. Shakir indicated that appellant's restrictions would last for one to two months. In an April 4, 2008 report, he again noted that appellant had tendinitis from a work-related accident in January 2008. Dr. Shakir advised light duty for one month.

On June 13, 2008 Dr. Houshang Seradge, a Board-certified orthopedic surgeon, whom appellant was referred by Dr. Shakir, advised that appellant reported having sustained an injury while he was trying to pull a tray out of a trailer at work and the floor gave away to a crack and he jarred his neck, shoulders and arm. He listed appellant's complaint of neck pain radiating to both pectoral areas, pain traveling down to his arms to the side of his elbows, coldness in his hands with tingling fingertips and wrist pain with hyperextension. Dr. Seradge further noted that appellant's C5-6 showed anterior bone spur with fracture on the superior plate without significant narrowing of disc space. He diagnosed cervical nerve root compression, carpal tunnel syndrome at the wrist and bilateral dynamic scaphoid instability. Dr. Seradge listed work restrictions and also recommended physical therapy.

In a June 27, 2008 work status report form, Dr. Seradge indicated that appellant had been treated, but remained refractory. He advised appellant to continue light-duty status. Dr. Seradge also recommended surgery. Also in a narrative report of that date, Dr. Seradge noted cervical spine changes at C5-6 and interosseus ligament and internal derangement of the wrist contributory to hand paresthesias. Dr. Seradge also noted continued clinical presentation of bilateral carpal tunnel syndrome symptoms and radicular pain from appellant's neck extending into his upper extremities. He recommended surgical decompression of the median nerve, an arthroscopy evaluation and treatment for the ligament injury to the wrist. Dr. Seradge indicated that appellant's neck pain and radicular pain into his upper extremities correlated with the history of injury provided by appellant.

On June 20, 2008 Dr. Kam Naik, a Board-certified diagnostic radiologist, advised that magnetic resonance imaging (MRI) scans showed minor degenerative disc disease with disc dehydration of appellant's cervical spine. He also noted that appellant's left wrist had joint effusion at the radioulnar level and midcarpal joint space. Dr. Naik suspected a ganglion cyst on the volar side of the wrist, at least a partial tear of the triangular fibrocartilage complex along the ulnar side attachments and tenosynovitis. Regarding appellant's right wrist, Dr. Naik noted small joint effusion at the radioulnar level, suggestive of two ganglion cysts, mild tenosynovitis and a tear of the lunotriquetral ligament.

On July 31, 2008 the Office advised appellant that additional evidence was necessary to establish his claim and allowed him 30 days to submit additional evidence.

Appellant submitted treatment notes from Kim Mayfield, an occupational therapist, diagnosing bilateral carpal tunnel syndrome. He also submitted several medical reports from Dr. Seradge that were already of record.

By decision dated September 19, 2008, the Office denied appellant's claim for compensation. It found that, although the evidence supported that the January 18, 2008 incident occurred, the medical evidence was insufficient to establish that appellant sustained an injury.

### **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 claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was filed within the applicable time limitation, that an injury was sustained while 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 on a traumatic injury or an occupational disease.<sup>2</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. 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>3</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.<sup>4</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *S.P.*, 59 ECAB \_\_\_\_ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *Id.*

<sup>4</sup> *I.J.*, 59 ECAB \_\_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

## ANALYSIS

The record reflects that appellant was pushing and pulling a postal container on January 18, 2008. However, the medical evidence does not establish that pushing or pulling a postal container caused or aggravated his claimed neck and shoulder injury.

Dr. Shakir's reports dated February 19, March 11 and April 4, 2008 diagnosed tendinitis of the left shoulder, wrist and arm due to a work-related accident on January 18, 2008. In his March 12, 2008 report, he checked a box on a form report indicating that appellant's need for work restrictions were due to an employment injury. Although Dr. Shakir attributed the cause of appellant's condition to the work incident, his opinion lacked medical rationale explaining how pushing and pulling a postal container would cause tendinitis. He did not explain the reasons why pushing and pulling a cart on January 18, 2008 would cause or aggravate a particular diagnosed condition. Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee's burden of proof.<sup>5</sup> The Board has held that an opinion on causal relationship that consists of checking a box on a form report, without further explanation or rationale, is of little probative value.<sup>6</sup>

On June 13, 2008 Dr. Seradge noted findings and diagnoses and provided a history of the claimed injury as reported by appellant. This report is of diminished probative value as he did not provide his own opinion directly addressing whether the January 18, 2008 work incident caused or aggravated any of the diagnosed conditions.<sup>7</sup> Dr. Seradge's June 27, 2008 report listed appellant's condition and symptoms, including cervical spine changes, internal derangement of the wrist, hand paresthesias, bilateral carpal tunnel syndrome and radicular pain from the neck to the upper extremity. He further noted that appellant's neck conditions correlated with his history of injury. While this provides some support for causal relationship, Dr. Seradge's opinion again failed to provide medical rationale explaining how the January 18, 2008 work incident caused or aggravated any of the diagnosed conditions. As noted, a medical opinion on causal relationship without rationale is of diminished probative value. Other reports from Dr. Seradge did not specifically address whether the January 18, 2008 work incident caused or aggravated a medical condition.

Dr. Naik's MRI scan report is insufficient to establish the claim as he did not specifically address whether the January 18, 2008 work incident caused or aggravated a diagnosed condition. As noted, medical evidence without an opinion on causal relationship is of little probative value.

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<sup>5</sup> S.S., 59 ECAB \_\_\_ (Docket No. 07-579, issued January 14, 2008).

<sup>6</sup> See *Alberta S. Williamson*, 47 ECAB 569 (1996).

<sup>7</sup> *K.W.*, 59 ECAB \_\_\_ (Docket No. 07-1669, issued December 13, 2007) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

Appellant also submitted treatment notes from Ms. Mayfield, an occupational therapist, whom is not competent to give a medical opinion as she is an occupational therapist and not considered a physician under the Act.<sup>8</sup>

On appeal, appellant asserts that the reports from Dr. Seradge meet his burden of proof. However, as noted, he has not submitted sufficient medical evidence which explains the reasons why the January 18, 2008 work incident caused or aggravated the diagnosed medical condition. Consequently, the medical evidence of record is insufficient to meet appellant's burden of proof in establishing his claim for compensation.

**CONCLUSION**

The Board finds that appellant has not met his burden of proof in establishing that he sustained a traumatic injury on January 18, 2008 in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decision dated September 19, 2008 is affirmed.

Issued: July 6, 2009  
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

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<sup>8</sup> See 5 U.S.C. § 8101(2); *Jerre R. Rinehart*, 45 ECAB 518 (1994) (an occupational therapist is not a physician within the meaning of the Act).