

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

S.J., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Charlotte, NC, Employer**

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**Docket No. 08-2452
Issued: June 5, 2009**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On September 15, 2008 appellant filed a timely appeal of the Office of Workers' Compensation Programs' decisions dated August 26, 2008 which affirmed the denial of his claim. The Board also has jurisdiction over the Office's January 14 and June 9, 2008 decisions that denied 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 October 18, 2007 in the performance of duty.

FACTUAL HISTORY

On November 25, 2007 appellant, then a 54-year-old rural mail carrier, filed a traumatic injury claim alleging that on October 18, 2007 he sustained a torn tendon in his left elbow while turning a steering wheel. He stopped work on October 22, 2007 and returned on November 16, 2007. The employing establishment controverted the claim.

On December 5, 2007 the Office advised appellant of the factual and medical evidence necessary to establish his claim and allowed him 30 days to submit such evidence.

In an October 22, 2007 report, Dr. Ahmad Kashif, a Board-certified rheumatologist, noted appellant's problems included inflammatory arthritis and a history of gouty arthritis. Appellant complained of left elbow pain over the previous two days with significant difficulty moving his elbow, similar to a gouty attack. Dr. Kashif diagnosed inflammatory arthritis and indicated that lateral epicondylitis was very unlikely. He gave appellant an injection of lidocaine and kenalog to the left lateral epicondyle. On October 24, 2007 Dr. Kashif noted appellant's elbow pain, history of inflammatory osteoarthritis and history of gouty arthritis with no clear evidence of a gouty attack. He advised that appellant's symptoms improved by 50 percent following his injection. Dr. Kashif diagnosed elbow pain and noted that it was most likely lateral epicondylitis.

On October 24, 2007 Dr. Kevin Carroll, a Board-certified diagnostic radiologist, stated that x-rays of the left elbow revealed no discrete fractures, dislocations, effusion or erosions. He recommended a magnetic resonance imaging (MRI) scan to better evaluate the bone marrow and soft tissue structures. In an October 31, 2007 MRI scan of appellant's left elbow, Dr. Michael Breen, a Board-certified diagnostic radiologist, found moderate subcutaneous edema just posterior to the triceps tendon and superficial to the adjacent olecranon process. He advised that appellant's condition could be a result of a low-grade partial thickness triceps tendon tear or the result of advanced triceps tendinitis. Dr. Breen favored the former over the latter. He noted that this was associated with focal bone edema at the triceps insertion site on the olecranon process.

By decision dated January 14, 2008, the Office denied appellant's claim finding that the medical evidence did not provide any history of work-related injury.

Appellant requested a review of the written record on February 5, 2007. He also submitted reports from Dr. Brian DeLay, a Board-certified orthopedic surgeon. On November 5, 2007 Dr. DeLay obtained a history that appellant injured his elbow on October 18, 2007 and complained of pain and weakness posteriorly. Appellant also complained of left thumb pain along the radial aspect. Dr. DeLay stated that this "apparently" occurred while he was holding mail in his left hand when his thumb became painful and he had difficulty gripping. He diagnosed left wrist de Quervain's syndrome, left elbow partial triceps tendon tear with olecranon spur and left elbow olecranon bursitis. Dr. DeLay recommended resection of the spur and debridement and reattachment of the triceps tendon. In reports dated November 15 and December 3, 2007, he noted appellant's continuing symptoms and recommended surgery for olecranon bursectomy, triceps tendon debridement, and olecranon spur resection. Dr. DeLay's examination revealed that appellant's left elbow had remarkable swelling in the olecranon bursa and tenderness over the distal insertion of triceps. He reiterated his diagnosis of left elbow olecranon bursitis with olecranon spur and partial tear of triceps tendon and left wrist de Quervain's syndrome.

By decision dated June 9, 2008, an Office hearing representative affirmed the January 14, 2008 decision. He found that, although it was accepted that appellant's federal duties included turning a steering wheel, the medical evidence was insufficient to support that appellant incurred an injury causally related to this incident on October 18, 2007.

Appellant requested reconsideration on June 21, 2008. He submitted a letter of the same date asserting that the medical evidence of record was sufficient to support his claim. Appellant also submitted Dr. Kashif's October 22, 2007 report previously of record.

By decision dated August 26, 2008, the Office denied modification of its June 9, 2008 decision finding that the medical evidence did not support that any diagnosed conditions were related to a particular injury or work incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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.²

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.³

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.⁴

¹ 5 U.S.C. §§ 8101-8193.

² *S.P.*, 59 ECAB ____ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *Id.*

⁴ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

The evidence supports that appellant's job requires him to turn a steering wheel. However, appellant has not submitted sufficient medical evidence to establish that this activity caused or aggravated his claimed torn tendon in the left elbow.

On November 5, 2007 Dr. DeLay reported that appellant injured his elbow on October 18, 2008. He noted that appellant complained of left thumb pain and difficulty gripping "apparently" from holding mail in his left hand. Dr. DeLay diagnosed left wrist de Quervain's syndrome, left elbow partial triceps tendon tear with olecranon spur and left elbow olecranon bursitis. However, Dr. DeLay does not explain how turning a steering wheel on October 18, 2008 caused appellant's condition. Rather, he attributed appellant's condition to apparently gripping mail. This report is insufficient to establish appellant's claim because it is not based on an accurate history of the incident giving rise to the claimed injury. Dr. DeLay also couched his support for causal relationship in speculative terms.⁵ He did not provide a reasoned medical opinion explaining how turning a steering wheel on October 18, 2008 caused or aggravated a torn tendon at the left elbow. Medical reasoning in support of causal relationship is important in a case such as this where the record indicates that appellant has a prior history of conditions such as gout and arthritis affecting the left arm. Dr. DeLay's other reports noted appellant's status but did not discuss whether particular employment activities caused or aggravated the diagnosed medical conditions. Thus, these reports from him are insufficient to establish appellant's claim.

The record also contains reports from Dr. Kashif who noted appellant's complaint of left elbow pain and diagnosed inflammatory osteoarthritis and a history of gouty arthritis. However, Dr. Kashif did not relate any of these conditions to appellant's October 18, 2007 incident or provide an opinion on the cause of his condition. 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.⁶ The diagnostic test reports of Drs. Breen and Carroll are insufficient to establish the claim as neither physician provided an opinion on causal relationship between the diagnosed medical condition and turning a steering wheel on October 18, 2008.

Consequently, the medical evidence is not sufficient to establish that appellant sustained a traumatic injury on October 18, 2007. There are no medical reports of record explaining the reasons why turning a steering wheel on October 18, 2007 would cause or aggravate a torn left elbow tendon.

CONCLUSION

The Board finds that appellant did not meet his burden of proof in establishing that he sustained a traumatic injury on October 18, 2007 in the performance of duty.

⁵ See *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (where the Board held that medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value).

⁶ *K.W.*, 59 ECAB ___ (Docket No. 07-1669, issued December 13, 2007).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decisions dated August 26, June 9 and January 14, 2008 are affirmed.

Issued: June 5, 2009
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board