



In a March 13, 2008 medical report, Dr. Timothy J. Greenan, a Board-certified diagnostic radiologist, reported that a magnetic resonance imaging (MRI) scan of appellant's elbow revealed no demonstrable soft tissue or osseous abnormality. He also noted that the MRI scan revealed no osteochondral or ligamentous injury.

By letter dated April 14, 2008, the Office notified appellant that the evidence submitted was insufficient to determine his eligibility for benefits under the Federal Employees' Compensation Act. It requested that appellant submit additional medical evidence. Appellant did not respond.<sup>1</sup>

By decision dated June 26, 2008, the Office denied his occupational disease claim finding that the evidence was insufficient to establish that he sustained a right arm injury.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Act<sup>2</sup> 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 disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>3</sup> 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.<sup>4</sup>

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

The Board has held that the fact that a condition manifests itself or worsens during a period of employment<sup>5</sup> or that work activities produce symptoms revelatory of an underlying

---

<sup>1</sup> The record reflects that appellant submitted a progress report from King Chiropractic, concerning an appointment on November 17, 2008. The Board notes that the Office did not consider this evidence in reaching its final decision. Pursuant to 20 C.F.R. § 501.2(c), the Board's review is limited to the evidence in the case record at the time the Office made its final decision. For this reason, the Board cannot consider this evidence for the first time on appeal.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *E.A.*, 58 ECAB \_\_\_ (Docket No. 07-1145, issued September 7, 2007); *Albert C. Haygard*, 11 ECAB 393, 395 (1960).

condition<sup>6</sup> does not raise an inference of causal relationship between a claimed condition and employment factors.

### **ANALYSIS**

Appellant alleged that his employment duties of breaking down mail caused a right arm condition; however, he did not provide sufficient medical evidence to establish his claim. The evidence of record is insufficient to establish that he developed a right arm condition causally related to factors of his employment.<sup>7</sup>

Appellant submitted a diagnostic report from Dr. Greenan, who noted that an MRI scan of the elbow did not reveal any abnormality. Dr. Greenan did not make any diagnoses pertaining to appellant's right arm or provide any opinion relating a medical condition to appellant's federal employment. 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.<sup>8</sup> Dr. Greenan's report is insufficient to establish a diagnosed condition causally related to appellant's duties as a mail handler.

The Office informed appellant of the need to submit a physician's opinion which explained how the alleged condition was related to employment-related factors. However, appellant did not respond. Accordingly, he has failed to establish that he sustained an injury in the performance of duty.<sup>9</sup>

### **CONCLUSION**

The Board finds that appellant did not establish that he sustained an injury in the performance of duty.

---

<sup>6</sup> *D.E.*, 58 ECAB \_\_\_\_ (Docket No. 07-27, issued April 6, 2007); *Fabian Nelson*, 12 ECAB 155, 157 (1960).

<sup>7</sup> *See Richard A. Weiss*, 47 ECAB 182 (1995).

<sup>8</sup> *S.S.*, 59 ECAB \_\_\_\_ (Docket No. 07-579, issued January 14, 2008).

<sup>9</sup> *See Edgar G. Maiscott*, 4 ECAB 558 (1952).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 26, 2008 is affirmed.

Issued: March 16, 2009  
Washington, DC

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

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

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