

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

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**J.W., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Carol Stream, IL, Employer**

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**Docket No. 09-801  
Issued: October 15, 2009**

*Appearances:*  
*Edward L. Daniel, for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On February 2, 2009 appellant filed a timely appeal from the January 5, 2009 merit decision of the Office of Workers' Compensation Programs denying her occupational injury claim. Pursuant to 20 C.F.R. §§ 501.2 and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish that she sustained an injury causally related to factors of her federal employment

**FACTUAL HISTORY**

This is appellant's second appeal before the Board. In a decision dated December 28, 2007, the Board affirmed the Office's December 7, 2006 denial of her occupational disease claim

and affirmed the denial of appellant's request for further merit review. The facts and the law of that decision are incorporated herein by reference.<sup>1</sup> The relevant facts are set forth below.

In a March 5, 2008 report, Dr. Lafayette Singleton, a Board-certified neurologist, reviewed appellant's medical history, which revealed a diagnosis of right rotator cuff tear. He noted that, when examined by Dr. Claudette Macklin, a Board-certified internist, appellant had denied any specific trauma, other than her exposure to work activities. Dr. Singleton stated that he was uncertain as to what exactly caused the rotator cuff tear. He described appellant's work activities, which included lifting and pulling heavy objects and stated that "the type of job she was doing as a casual clerk does cause rotator cuff tears." Dr. Singleton also stated that, given the evidence by magnetic resonance imaging scan of a torn rotator cuff, "there had to be a traumatic event of some type,"

Dr. Singleton also reviewed the chronology of appellant's workers' compensation claim, indicating that it had initially been accepted. He observed that there was no medical evidence of record refuting a causal relationship between appellant's shoulder condition and employment activities. Dr. Singleton opined that appellant's right shoulder rotator cuff tear was caused by her work duties at the employing establishment.

On October 2, 2008 appellant, through her representative, requested reconsideration. The representative contended that Dr. Singleton's March 5, 2008 report was sufficient to establish a causal relationship between appellant's right shoulder condition and her work activities.

By decision dated January 5, 2009, the Office denied modification of its previous decision. It found that Dr. Singleton's opinion was based on conjecture and inaccurate information and, therefore, was insufficient to establish appellant's claim.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of her claim, including the fact that an injury was sustained in the performance of duty as alleged<sup>3</sup> and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<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

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<sup>1</sup> Docket No. 07-1968 (issued December 28, 2007). Appellant alleged a right shoulder injury due to factors of her federal employment.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joseph W. Kripp*, 55 ECAB 121 (2003); *see also Leon Thomas*, 52 ECAB 202, 203 (2001). "When an employee claims that he sustained injury in the performance of duty he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and manner alleged. He must also establish that such event, incident or exposure caused an injury." *See also* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(q) and (ee) (2002) ("Occupational disease or Illness" and "Traumatic injury" defined).

<sup>4</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the 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 diagnosed condition is causally related to the employment factors identified by the claimant.<sup>5</sup> The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to claimant's diagnosed condition. To be of probative value, the opinion of the physician must be based on a complete factual and medical background of the claimant, 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 claimant.<sup>6</sup> An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.<sup>7</sup>

### ANALYSIS

In the prior appeal, the Board found that the medical evidence failed to establish a causal relationship between established work activities and appellant's claimed right shoulder condition. The Board finds that the medical evidence submitted on reconsideration before the Office is insufficient to establish that her right shoulder condition was caused or aggravated by factors of her federal employment.

The medical evidence submitted in support of appellant's reconsideration request consists of a March 5, 2008 report from Dr. Singleton, who summarily opined that appellant's torn rotator cuff was caused by her work duties. Dr. Singleton's report is of limited probative value because he did not provide findings on examination or even state that he had examined appellant. His opinion appears based solely on his review of the medical and factual record. Dr. Singleton's opinion on causal relationship is inconsistent. He stated that appellant could not identify any specific trauma but noted that "there had to be a traumatic event of some type." Dr. Singleton failed to sufficiently explain the medical process by which her work activities caused or contributed to the diagnosed torn rotator cuff. His statement that the type of job appellant was doing as a casual clerk can cause rotator cuff tears is general and does not describe the process whereby her job duties caused her diagnosed shoulder condition. Dr. Singleton did not explain how performing repetitive activities could result in a torn rotator cuff, particularly in light of his assertion that "there must have been a traumatic event of some type." The Board has held that medical conclusions unsupported by rationale are of little probative value.<sup>8</sup>

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<sup>5</sup> *Michael R. Shaffer*, 55 ECAB 386 (2004). *See also Solomon Polen*, 51 ECAB 341, 343 (2000).

<sup>6</sup> *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *see also Ern Reynolds*, 45 ECAB 690, 695 (1994).

<sup>7</sup> *Phillip L. Barnes*, 55 ECAB 426 (2004); *see also Dennis M. Mascarenas*, *supra* note 4 at 218.

<sup>8</sup> *Willa M. Frazier*, 55 ECAB 379 (2004).

Appellant contends that her right shoulder condition resulted from her exposure to contaminants in her work environment, including dust and chemical fumes. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>9</sup> Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>10</sup> Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit. Therefore, appellant's belief that her condition was caused by the alleged work-related injury is not determinative.

The Office advised appellant that it was her responsibility to provide a comprehensive medical report which described her symptoms, test results, diagnosis, treatment and the doctor's opinion, with medical reasons, on the cause of her condition. Appellant failed to do so. There is no probative, rationalized medical evidence addressing how her work duties were caused or aggravated her claimed condition. Appellant has not met her burden of proof in establishing that she sustained an occupational disease causally related to factors of employment.

Appellant's representative contends that appellant submitted sufficient medical evidence to require the Office to refer her for a second opinion examination. As noted, however, the Board finds that the medical evidence is insufficient to establish appellant's claim or to require further development.

### **CONCLUSION**

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

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<sup>9</sup> See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

<sup>10</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 5, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 15, 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