

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

B.G., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Zephyrhills, FL, Employer**

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**Docket No. 09-566
Issued: September 9, 2009**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On December 19, 2008 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decisions dated July 11 and October 17, 2008 finding that she had not established an injury causally related to her federal employment. 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 has met her burden of proof in establishing that she developed a right shoulder condition due to her employment duties.

FACTUAL HISTORY

On April 10, 2008 appellant, then a 44-year-old rural mail carrier, filed an occupational disease claim alleging that she developed right shoulder pain due to the repetitive activities of casing, delivering and lifting mail. She first became aware of her condition on March 13, 2008 and first attributed the condition to her employment on March 14, 2008. In a narrative statement, appellant alleged that her right shoulder pain began during casing mail and that the ache

intensified throughout the day. She stated that her right shoulder pain was in the joint area and that the pain radiated with a tingling sensation down her right fifth finger.

Dr. Shafaq Hussain, a Board-certified internist, completed a note on March 17, 2008 and reported that appellant had a gradual onset of right shoulder pain over the prior four days which was progressively worsening with lifting. She diagnosed rotator cuff tendinitis of the right shoulder. On April 10, 2008 Dr. Hussain noted that appellant's right shoulder pain had decreased but not completely resolved. She diagnosed shoulder tendinitis.

In a letter dated April 26, 2008, the Office requested additional factual and medical evidence from appellant and allowed 30 days for a response. Appellant responded on May 12, 2008 and described her activities outside of work. In a duty status report dated May 9, 2008, Dr. Hussain diagnosed right shoulder tendinitis. She indicated with a checkmark "yes" that appellant provided a history of casing mail, lifting parcels and tubs and delivering mail. Dr. Hussain released appellant to return to full duty on March 20, 2008.

By decision dated July 11, 2008, the Office denied appellant's claim finding that Dr. Hussain failed to provide the necessary medical opinion evidence to establish a causal relationship between appellant's diagnosed condition and her implicated employment duties.

Appellant requested reconsideration on July 30, 2008. She asserted her belief that her right shoulder condition was caused by her work duties of lifting. In a report dated July 30, 2008, Dr. Hussain stated that appellant's right shoulder pain started while performing her daily job duties of casing, sorting, loading and delivering mail. She stated, "All of which contributed to her symptoms...." Dr. Hussain diagnosed rotator cuff tendinitis with impingement syndrome caused by a work-related injury.

By decision dated October 17, 2008, the Office denied modification of its July 11, 2008 decision finding that Dr. Hussain did not provide sufficient medical reasoning to establish appellant's claim.¹

On appeal to the Board, appellant contends that the medical evidence is sufficient to establish her claim.

LEGAL PRECEDENT

An occupational disease or illness means a condition produced by the work environment over a period longer than a single workday or shift.² 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 a 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

¹ Following the Office's October 17, 2008 decision, appellant submitted additional new evidence. As the Office did not consider this evidence in reaching a final decision, the Board may not review the evidence for the first time on appeal. See 20 C.F.R. § 501.2(c).

² 20 C.F.R. § 10.5(q).

(3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.³

ANALYSIS

Appellant attributed her right shoulder tendinitis to her job duties of casing, delivering and lifting mail. In support of her claim, she submitted a series of reports from Dr. Hussain, a Board-certified internist, diagnosing right shoulder tendinitis. Appellant has submitted the medical evidence necessary to establish the presence of a condition and a factual statement identifying the employment factors which she believed caused or contributed to that condition.

Dr. Hussain submitted a duty status report dated May 9, 2008 diagnosing right shoulder tendinitis and indicated with a checkmark “yes” that appellant provided a history of casing mail, lifting parcels and tubs and delivering mail. This report is not sufficient to meet appellant’s burden of proof. Dr. Hussain did not explain how these activities caused or contributed to appellant’s right shoulder tendinitis. It is well established that a physician’s opinion on causal relationship that consists of checking “yes” to a form question is of diminished probative value.⁴

In a report dated July 30, 2008, Dr. Hussain stated that appellant’s right shoulder pain started while performing her daily job duties of casing, sorting, loading and delivering mail. She stated, “All of which contributed to her symptoms....” Dr. Hussain diagnosed rotator cuff tendinitis with impingement syndrome caused by a work-related injury. While she generally opined that appellant’s employment duties contributed to her right shoulder symptoms and diagnosis of rotator cuff tendinitis, she did not offer any medical reasoning explaining why and how she believed this to be true. Dr. Hussain did not explain the processes by which appellant’s job duties of casing, sorting, loading and delivering mail would result in or contribute to right shoulder tendinitis. Her report provided only a minimal description of any physical examination and did not contain any discussion of diagnostic testing to support the diagnosis. Without rationalized medical opinion evidence explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified, appellant has failed to meet her burden of proof.

CONCLUSION

The Board finds that appellant did not establish a causal relationship between her diagnosed right shoulder tendinitis and her federal employment.

³ *Solomon Polen*, 51 ECAB 341, 343-44 (2000).

⁴ *See Cecelia M. Corley*, 56 ECAB 662 (2005).

ORDER

IT IS HEREBY ORDERED THAT October 17 and July 11, 2008 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 9, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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