

her employment duties. Appellant returned to work on February 22, 2006 with lifting restrictions, stopped working on December 28, 2006 and resumed on February 11, 2007.

In a letter dated September 21, 2007, the Office notified appellant of the deficiencies in her claim and requested she provide additional information.

Appellant thereafter submitted several medical reports from Dr. Ronald L. Meisel, an osteopath, dated June 8 through September 28, 2007 addressing her right elbow injury. In a June 8, 2007 medical report, Dr. Meisel reported appellant's claims that in December 2006 she lifted a heavy file resulting in elbow pain. Appellant experienced continuing right elbow pain with numbness and tingling in her ring and little fingers. Physical examination revealed tenderness in right lateral and medial epicondyle with palpations and positive Tinel's and hyperflexion tests. Dr. Meisel diagnosed medial and lateral epicondylitis of the right elbow with cubital tunnel syndrome and treated appellant with a steroid injection.

On July 3, 2007 Dr. Meisel performed a right elbow medial epicondylectomy and flexor tendon release. In an August 31, 2007 medical report, he reported appellant's preoperative symptoms were resolved. Dr. Meisel returned her to work on September 4, 2007. On September 28, 2007 he removed all work restrictions.

By decision dated October 23, 2008, the Office denied appellant's claim on the grounds that she did not submit any medical evidence to support her claim.

By decision dated January 22, 2009, the Board set aside an October 23, 2008 Office decision denying appellant's occupational disease claim on the grounds that the Office did not properly review all medical evidence of record. The Board remanded the case for a proper review of the evidence and issuance of a final decision.¹

In a May 14, 2009 decision, the Office denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained an injury causally related to her employment factors.

LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence,³ including that she is an "employee" within the meaning of

¹ Docket No. 08-1924 (issued January 22, 2009).

² 5 U.S.C. §§ 8101-8193.

³ *J.P.*, 59 ECAB ___ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

the Act⁴ and that she filed her claim within the applicable time limitation.⁵ The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.⁶

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁷

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.⁸

ANALYSIS

The issue is whether appellant established that she sustained a right elbow injury due to the heavy lifting required by her employment duties. The Board finds that appellant has not met her burden of proof.

In order to establish her claim, appellant is required to submit rationalized medical evidence describing how her elbow injury was caused by her work factors.⁹ Appellant submitted several medical reports from Dr. Meisel, dated June 8 through September 28, 2007. Dr. Meisel diagnosed medial and lateral epicondylitis of the right elbow with cubital tunnel syndrome and performed a July 3, 2007 medical epicondylectomy and flexor tendon release. The only mention of causation is limited to the June 8, 2007 report, wherein Dr. Meisel reported appellant's claims that she lifted a heavy file resulting in elbow pain. Neither the fact that the condition became apparent during a period of employment, nor the belief of a claimant that the condition was

⁴ See *M.H.*, 59 ECAB ____ (Docket No. 08-120, issued April 17, 2008); *Emiliana de Guzman (Mother of Elpedio Mercado)*, 4 ECAB 357, 359 (1951); see 5 U.S.C. § 8101(1).

⁵ *R.C.*, 59 ECAB ____ (Docket No. 07-1731, issued April 7, 2008); *Kathryn A. O'Donnell*, 7 ECAB 227, 231 (1954); see 5 U.S.C. § 8122.

⁶ *G.T.*, 59 ECAB ____ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁸ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ See *Victor J. Woodhams*, *id.*

caused or aggravated by employment conditions is sufficient to establish causal relationship.¹⁰ Beyond relaying appellant's history of her condition, Dr. Meisel never addressed the cause of the injury. He did not provide a rationalized opinion attributing appellant's right elbow condition to her employment duties or explain how the mechanisms of repetitive heavy lifting caused the diagnosed medial and lateral epicondylitis or cubital tunnel syndrome. Thus, these reports are of diminished probative value to the issue of causation.¹¹

On appeal, appellant contends that her treating physician would not provide a definitive medical opinion on causation because he did not witness her injury. As discussed above, appellant has the burden of proof to establish with medical evidence that she sustained an injury causally related to her employment. However, the required medical evidence does not have to include an opinion that her right elbow condition was absolutely caused by her employment. Rather, the opinion must be one of reasonable medical certainty that her condition is causally related to her employment factors. This opinion must also be supported by affirmative medical evidence, explained by medical rationale and based upon a complete and accurate factual and medical background.¹² Appellant has not submitted a medical opinion on causation meeting this standard. Therefore, she has not established her claim.

CONCLUSION

The Board finds that appellant did not establish that she sustained a right elbow injury causally related to the factors of her federal employment.

¹⁰ See *Ruby I. Fish*, 46 ECAB 276 (1994); *Frederick H. Coward, Jr.*, 41 ECAB 843, 852 (1990).

¹¹ See *Robert Broome*, 55 ECAB 339 (2004); *Linda I. Sprague*, 48 ECAB 386 (1997).

¹² See *Kathy A. Kelley*, 55 ECAB 206 (2004).

ORDER

IT IS HEREBY ORDERED THAT the May 14, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 15, 2010
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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