

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

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A.M., Appellant

and

DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE, Fresno, CA,  
Employer

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**Docket No. 10-151  
Issued: July 21, 2010**

*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  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On October 20, 2009 appellant filed a timely appeal of a September 21, 2009 decision of the Office of Workers' Compensation Programs denying modification of a June 18, 2009 decision denying her claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(e), the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish that she sustained a traumatic injury on April 20, 2009 in the performance of duty.

**FACTUAL HISTORY**

On April 20, 2009 appellant, then a 59-year-old accounting technician, filed a traumatic injury claim alleging that on that date she injured her right arm after being struck by an elevator door. She stopped work on that date and returned on April 22, 2009.

On May 8, 2009 the Office advised appellant of the factual and medical evidence necessary to establish her claim and allowed her 30 days to submit such evidence. In particular,

it requested a physician's report with a diagnosis and an opinion regarding whether the diagnosed condition was caused or aggravated by the claimed injury.

In an April 20, 2009 report, Dr. Camie J. Sorensen, Board-certified in emergency medicine, noted that she saw appellant in her office where appellant stated that she had been ill. She advised that appellant was unable to work through April 21, 2009.

In a June 18, 2009 decision, the Office denied appellant's claim finding that, although evidence supported that the claimed event occurred, there was no medical evidence with a diagnosis that could be connected to the event.

Appellant requested reconsideration on June 22, 2009. In support of her request, she submitted an April 20, 2009 emergency department nurse's note and an April 21, 2009 emergency department report from Dr. Sorensen. The nurse's note indicated that appellant had pain at the elbow area after an elevator door hit her arm at work. Dr. Sorensen noted a history of right arm pain after it was hit by closing elevator door about seven hours earlier. Examination revealed no numbness, tingling or sensory deficits. Motor responses were normal although there was increased pain with supination and internal rotation. Dr. Sorensen stated that an x-ray revealed no acute fracture. She assessed right arm pain after being caught in closing elevator and "no other injury" with examination significant for mild tenderness but no neurovascular, motor or sensory deficits. Dr. Sorensen recommended that appellant use a sling for support and take ibuprofen.

In a June 15, 2009 duty status report, Dr. Sorensen noted examining appellant on April 20, 2009. She diagnosed elbow pain and strain. Dr. Sorensen advised that appellant could resume regular-duty work on April 22, 2009. Appellant also submitted a witness statement dated April 20, 2009 and several documents already of record.

In a September 21, 2009 decision, the Office denied modification of its June 18, 2009 decision. It found that the additional evidence submitted was insufficient to warrant modification of its decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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.<sup>2</sup>

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.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *S.P.*, 59 ECAB \_\_\_\_ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

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.<sup>3</sup>

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.<sup>4</sup>

### ANALYSIS

The record reflects that appellant's right arm was struck by an elevator door on April 20, 2009 in the performance of duty, but the medical evidence is insufficient to establish that being struck by an elevator door caused or aggravated a diagnosed medical condition in her right arm.

Dr. Sorensen's April 21, 2009 emergency department report noted a history of right arm pain after it was hit by a closing elevator door about seven hours earlier. She assessed right arm pain and noted the examination was essentially normal and that x-rays revealed no fracture. To the extent that this report may be construed as supporting causal relationship, the Board notes that pain is a symptom, not a compensable medical diagnosis.<sup>5</sup> Dr. Sorensen did not otherwise provide a clear and reasoned opinion supporting that the elevator door incident caused or aggravated a diagnosed medical condition. Her duty status report dated June 15, 2009 diagnosed elbow pain and strain and advised that appellant could resume regular work duties. However, Dr. Sorensen did not provide an opinion on causal relationship or discuss whether the April 20, 2009 work incident caused or aggravated her right arm condition. The Board has held that 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>6</sup> Similarly, Dr. Sorensen's April 20, 2009 report indicating that appellant had been ill and unable to work through April 21, 2009 failed to address the issue of causal relationship.

The record also contains an April 20, 2009 treatment report from a nurse. As nurses are not "physicians" as defined under the Act, their opinions are of no probative value.<sup>7</sup>

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<sup>3</sup> *Id.*

<sup>4</sup> *I.J.*, 59 ECAB \_\_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>5</sup> *C.F.*, 60 ECAB \_\_\_\_ (Docket No. 08-1102, issued October 10, 2008).

<sup>6</sup> *S.E.*, 60 ECAB \_\_\_\_ (Docket No. 08-2214, issued May 6, 2009).

<sup>7</sup> *See Roy L. Humphrey*, 57 ECAB 238 (2005). *See* 5 U.S.C. § 8101(2) (defining the term "physician"); *see also Charley V.B. Harley*, 2 ECAB 208 (1949) (the Board held that medical opinion, in general, can only be given by a qualified physician).

The Office notified appellant of the type of evidence necessary to establish her claim on May 8, 2009. In particular, it advised that appellant needed to submit a physician's report explaining how the April 20, 2009 work incident caused or aggravated her right arm condition. However, appellant did not submit a reasoned medical opinion explaining how the work incident contributed to a diagnosed medical condition.

For these reasons, the medical evidence is insufficient to establish that appellant sustained a traumatic injury on April 20, 2009 in the performance of duty.

**CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained a traumatic injury on April 20, 2009 in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decisions dated September 21 and June 18, 2009 are affirmed.

Issued: July 21, 2010  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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