

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

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**J.F., Appellant**

**and**

**DEPARTMENT OF THE ARMY, YUMA  
PROVING GROUND, Yuma, AZ, Employer**

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**Docket No. 09-2342  
Issued: June 11, 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  
DAVID S. GERSON, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On September 25, 2009 appellant filed a timely appeal of a May 13, 2009 Office of Workers' Compensation Programs' merit decision, denying his claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of appellant's case.

**ISSUE**

The issue is whether appellant has met his burden of proof in establishing that he developed bilateral shoulder and elbow conditions due to his employment duties.

**FACTUAL HISTORY**

On May 16, 2008 appellant, then a 54-year-old explosives operator, filed an occupational disease claim alleging that he developed bilateral epicondylitis and bilateral superior labrum anterior tears due to lifting and handling heavy items at work. He indicated that he first realized his condition on January 25, 2008. The Office requested additional factual and medical evidence by letter dated May 19, 2008. Appellant submitted documentation of several employment-

related injuries to his elbow and shoulder. In a statement received June 9, 2008, he alleged that he had sustained several work-related injuries to his shoulders and elbow beginning in 1990.

Dr. Todd K. Runyan, a Board-certified orthopedic surgeon, scheduled appellant for left shoulder surgery on May 20, 2008. In a note dated April 30, 2008, he diagnosed bilateral lateral epicondylitis and bilateral superior labrum anterior tear.

By decision dated July 18, 2008, the Office denied appellant's claim finding that, although he submitted evidence supporting his alleged employment activities, he failed to submit the necessary medical opinion evidence.

Appellant requested reconsideration on March 2, 2009. He submitted magnetic resonance imaging (MRI) scans dated January 31, 2008, which demonstrated impingement, a small ganglion cyst and a superior labrum anterior or posterior (SLAP) lesion in the left shoulder and SLAP lesion and impingement syndrome in the right shoulder. An MRI scan of the left elbow on February 2, 2008 found mild common extensor tendinosis while the right elbow demonstrated lateral epicondylitis and common extensor tendinitis on an MRI scan of the same date. Appellant also submitted notes from Dr. Runyan dated January 25, 2008 noting appellant's complaints of severe pain and weakness in his shoulders and findings of impingement and positive infraspinatus and supraspinatus signs bilaterally. Dr. Runyan diagnosed bilateral shoulder rotator cuff tear and bilateral elbow instability. On February 13, 2008 he diagnosed bilateral epicondylitis and bilateral superior labrum anterior or posterior tear. Dr. Runyan recommended physical therapy. In a note dated April 28, 2008, he found that appellant's physical examination was unchanged and recommended surgery. Dr. Runyan performed a left shoulder arthroscopy labral and capsular repair and subacromial decompression on May 20, 2008. He examined appellant on May 28, June 25, August 6 and October 24, 2008 and found that he was healing well. On August 6, 2008 Dr. Runyan diagnosed, "Left shoulder rotator cuff tear, work-related injury." In a separate note dated August 6, 2008, he diagnosed "labral tear from work injury."

By decision dated May 13, 2009, the Office reviewed appellant's claim on the merits and found that he had submitted sufficient medical evidence to establish a diagnosed condition, but failed to submit the necessary medical opinion evidence to establish his claim.

### **LEGAL PRECEDENT**

The Office's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."<sup>1</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

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<sup>1</sup> 20 C.F.R. § 10.5(q).

causally related to the employment factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.<sup>2</sup>

### ANALYSIS

Appellant has attributed his bilateral shoulder and elbow conditions to lifting and carrying heavy objects in the performance of his federal job duties. The Office accepted that appellant was required to perform lifting during his workday, but found that appellant had not submitted the necessary medical opinion evidence to establish a causal relationship between his diagnosed conditions of bilateral epicondylitis and bilateral superior labrum anterior tears and his accepted employment duties.

In support of his claim, appellant submitted a series of reports from Dr. Runyan, a Board-certified orthopedic surgeon, beginning on January 25, 2008 diagnosing bilateral shoulder rotator cuff tear and bilateral elbow instability. Appellant underwent MRI scans on January 31, 2008 which demonstrated impingement and SLAP lesions in both shoulders as well as a ganglion cyst in the left shoulder. On February 2, 2008 appellant underwent elbow MRI scans, which found mild common extensor tendinosis on the left while the right elbow demonstrated lateral epicondylitis and common extensor tendinitis. Dr. Runyan diagnosed bilateral epicondylitis and bilateral SLAP tear on February 13, 2008. He recommended left shoulder surgery on April 28, 2008. In a note dated April 30, 2008, Dr. Runyan diagnosed bilateral lateral epicondylitis and bilateral superior labrum anterior tear. He performed a left shoulder arthroscopy labral and capsular repair and subacromial decompression on May 20, 2008. On August 6, 2008 Dr. Runyan diagnosed, “Left shoulder rotator cuff tear, work-related injury” and “labral tear from work injury.”

The Board finds that, while Dr. Runyan has provided a diagnosis of appellant’s shoulder condition and offered some opinion that these conditions are due to his employment, Dr. Runyan has not provided the necessary medical opinion evidence to establish a causal relationship between appellant’s diagnosed conditions and his employment duties. He did not identify any specific employment activity as the cause of appellant’s rotator cuff tear. Dr. Runyan did not explain how and why appellant’s work caused his diagnosed condition. Without a detailed medical report including identification of the employment duties which lead to the development of appellant’s left rotator cuff tear, the medical evidence is not sufficient to meet appellant’s burden of proof. As Dr. Runyan did not state that appellant developed a rotator cuff tear due to lifting in the performance of his job duties and did not explain how lifting could have caused or contributed to the development of the rotator cuff tear, his reports are not sufficient to meet appellant’s burden of proof.

On appeal, appellant alleged that the employing establishment personnel did not appropriately aid him in the development of his claim and provided him with incorrect advice.

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<sup>2</sup> *Lourdes Harris*, 45 ECAB 545, 547 (1994).

The Board's jurisdiction is limited to the specific issue decided by the Office, whether appellant has met his burden of proof in establishing his current occupational disease claim, and cannot consider or rule on the actions of the employing establishment.<sup>3</sup>

**CONCLUSION**

The Board finds that appellant failed to submit the necessary detailed medical opinion evidence to meet his burden of proof in establishing that he sustained bilateral shoulder or elbow conditions due to his federal employment duties.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 13, 2009 decision of Office of Workers' Compensation Programs is affirmed.

Issued: June 11, 2010  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

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<sup>3</sup> 20 C.F.R. § 501.2(c).