

controverted the claim on the grounds that it should have been filed as an occupational disease and that the medical evidence was insufficient to establish an employment injury.

Appellant submitted medical notes dated February 23 through March 7, 2009 from Dr. Erica M. David, Board-certified in physical medicine and rehabilitation, who stated that appellant was in her office and provided physical limitations, including no lifting greater than 5 to 10 pounds, no overhead shoulder activity and avoidance of repetitive movements with the right arm. On February 26, 2009 Dr. David prescribed occupational therapy for appellant's right shoulder and elbow for right rotator cuff syndrome, right medial epicondylitis and cervical right radiculopathy. She took appellant out of work from February 26 through March 8, 2009. On March 7, 2009 she took appellant out of work through April 4, 2009 for right shoulder and right elbow pain.

In a March 4, 2009 report, Dr. David briefly described appellant's medical treatment. She advised that appellant was disabled through April 4, 2009 and recommended physical therapy to decrease her pain. Dr. David noted that appellant was currently receiving occupational therapy on her right shoulder and elbow for right rotator cuff syndrome, right medial epicondylitis and cervical right radiculopathy.

On February 18, 2009 Dr. Indu Vira, a Board-certified internist, diagnosed chronic tendinitis and pain in appellant's right hand and returned her to work on February 23, 2009.

By letter dated March 19, 2009, the Office notified appellant of the deficiencies in her claim. It requested that she provide additional factual and medical evidence. The Office also advised her that it would adjudicate her claim as an occupational disease as she identified a chronic injury.

On March 16, 2009 Dr. David provided physical restrictions and indicated that appellant was unable to work until April 4, 2009 but that she would be reevaluated on March 23, 2009 for restricted duty.

In a March 24, 2009 statement, appellant stated that her duties at work for the past several years included pushing and pulling postal containers of 70 to 90 pounds, processing flow back mail, breaking down cages of mail and moving heavy pallets of mail. She claimed that, on February 6, 2009, she was performing mail handler work, specifically pushing and pulling 70- to 90-pound postal containers, when her right shoulder, arm and hand became numb and very painful. On March 24, 2009 appellant clarified that she experienced the claimed injury on February 6, 2009 while performing mail handler work and that her injury worsened and became more painful during the following week.

By letter dated March 25, 2009, the Office reiterated that it was adjudicating her claim as an occupational disease and that continuation of pay could not be authorized.

On April 6, 2009 Dr. David released appellant to light duty for four hours a day with restrictions on lifting more than 10 pounds and limitations on repetitive movements with the right arm.

By decision dated April 29, 2009, the Office denied appellant's claim on the grounds that she did not provide a sufficiently detailed description of the employment factors that she believed caused an injury.

LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence,² including that she is an "employee" within the meaning of the Act³ and that she filed her claim within the applicable time limitation.⁴ 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.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.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

¹ 5 U.S.C. §§ 8101-8193.

² *J.P.*, 59 ECAB ____ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

³ *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).

⁴ *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.

⁵ *G.T.*, 59 ECAB ____ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *See Gary J. Watling*, 52 ECAB 357 (2001).

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).

ANALYSIS

The issue is whether appellant established that she sustained an injury causally related to the factors of her federal employment. The Office denied the claim on the grounds that she did not submit a sufficiently detailed statement identifying the work factors that she believed caused an employment injury.

Appellant initially filed a traumatic injury claim (Form CA-1) alleging injury on February 6, 2009. The Board finds that due to the nature of her claim, it is more accurately characterized as an occupational disease. A traumatic injury is defined as a condition caused by a specific event or incident or series of events or incidents, within a single workday or shift.⁹ By contrast, an occupational disease is a condition produced by the work environment over a period longer than a single workday or shift.¹⁰ Appellant's statements attributed her condition to her employment duties, alleging a chronic condition that persisted and worsened overtime. Although she clarified that she did not begin to experience symptoms of her condition until February 6, 2009, she did not describe a single event or series of events within a single workday or shift that she believed caused an injury. Rather, appellant implicated her performance of employment duties over more than one shift. As such, her claim was properly adjudicated as an occupational disease.¹¹

The Board finds that appellant has identified the work activities of her occupational disease claim. Appellant listed her employment duties including pushing and pulling postal containers weighing 70 to 90 pounds, processing flow back mail, breaking down cages of mail and moving heavy pallets of mail. Her statements regarding her employment duties are consistent and there is no evidence from the employing establishment to refute her claims regarding her employment activities.¹² Therefore, appellant has identified the employment factors that she believed caused her claimed condition.

Appellant also has the burden to establish that she sustained an injury due to her employment factors.¹³ On appeal, she contends that she sustained cervical radiculitis, cervical herniated disc and rotator cuff syndrome due to her employment. However, neither the fact that a condition became apparent during a period of employment, nor the belief of appellant that the condition was caused or aggravated by employment conditions, is sufficient to establish causal

⁹ 20 C.F.R. § 10.5(q).

¹⁰ *Id.* at § 10.5(ee).

¹¹ The Board notes that it is irrelevant that appellant filed a traumatic injury claim rather than an occupational disease claim. Office procedures provide that submission of an incorrect form is a technical error and it is improper for the Office to deny a case on the basis that a claimant failed to submit the correct form. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Development of Claims*, Chapter 2.800.4(b) (March 2003). Further, the Board has held that enforcing technical requirements of pleading are inconsistent with the remedial purposes of the Act. *See Dale M. Newbigging*, 44 ECAB 551 (1993); *Wilfred M. Hamilton*, 41 ECAB 524 (1990).

¹² *See Louise F. Garnett*, 47 ECAB 639 (1996); *Loise G. Moore*, 20 ECAB 165 (1968).

¹³ *See Roy L. Humphrey*, *supra* note 7.

relationship.¹⁴ Appellant is required to submit rationalized medical opinion evidence explaining how her employment duties caused or aggravated the diagnosed conditions.¹⁵

The medical evidence of record primarily consists of medical notes from Dr. David, appellant's treating physician, who diagnosed right rotator cuff syndrome, right medial epicondylitis and cervical right radiculopathy. Dr. David provided physical activity restrictions and took appellant out of work through April 4, 2009 for right shoulder and elbow pain. She prescribed occupational therapy for appellant's right shoulder and elbow. Dr. David prescribed additional physical therapy to decrease pain. On April 6, 2009 she released appellant to part-time, light duty with restrictions on lifting more than 10 pounds and limitations on repetitive movements with the right arm.

The Board finds that medical evidence from Dr. David is insufficient to establish appellant's claim. Dr. David did not address the cause of appellant's right rotator cuff syndrome, right medial epicondylitis or cervical right radiculopathy. She did not provide a rationalized medical opinion explaining how the duties appellant performed at work caused or contributed to the diagnosed conditions or otherwise opine as to whether they were related to appellant's employment. As such, this medical evidence is of diminished probative value.¹⁶

The February 18, 2009 medical note from Dr. Vira diagnosed chronic tendinitis and pain in appellant's right hand and returned her to work on February 18, 2009. The Board finds that this note is similarly insufficient to establish her claim, as the physician did not address the cause of the diagnosed chronic tendinitis. Therefore, her note is also of diminished probative value.¹⁷

Appellant did not submit sufficient evidence providing rationalized medical opinion explaining how her sustained diagnosed conditions were causally related to her employment. The Board finds that the medical evidence of record is insufficient to establish that appellant sustained an injury causally related to employment factors.¹⁸

CONCLUSION

The Board finds that appellant established the factors of her federal employment that she believed caused an injury. However, the Board also finds that she did not establish that she sustained an injury causally related to her employment factors.

¹⁴ See *Ruby I Fish*, 46 ECAB 276 (1994); *Frederick H. Coward, Jr.*, 41 ECAB 843, 852 (1990).

¹⁵ See *Victor J. Woodhams*, *supra* note 8.

¹⁶ See *Donald T. Pippin*, 54 ECAB 631 (2003).

¹⁷ See *id.*

¹⁸ See *A.D.*, 58 ECAB 149 (2006).

ORDER

IT IS HEREBY ORDERED THAT the April 29, 2009 decision of the Office of Workers' Compensation is modified, in part and affirmed in accordance with this decision.

Issued: March 5, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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