

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

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R.C., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,  
Dorchester, MA, Employer

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**Docket No. 09-2005  
Issued: May 17, 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  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On August 3, 2009 appellant filed a timely appeal of a May 13, 2009 decision of the Office of Workers' Compensation Programs denying his 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 his burden of proof to establish that he sustained an occupational disease in the performance of duty.

**FACTUAL HISTORY**

On October 10, 2008 appellant, then a 45-year-old automation clerk, filed an occupational disease claim alleging that he developed tendinitis of the right elbow from repetitive motions consisting of keying mail into a machine and pushing heavy tubs of mail. He first realized that his condition was caused or aggravated by his employment activities on October 10, 2008. Appellant stopped work on that day and returned on October 15, 2008.

In an October 23, 2008 statement, appellant noted that his right arm and elbow had been sore for several weeks and had worsened between October 4 and 10, 2008. He sought attention at an urgent care center where a physician diagnosed tendinitis. Appellant described the nature of his job duties and noted that he had performed these duties for eight hours a day for 19 years. He further advised that he had no prior problems with either arm or elbow.

On October 10, 2008 Dr. Dennis Pannulo, an internist, noted that appellant's history of injury involved hitting his right elbow on a machine at work on July 3, 2008. Appellant's complaint of pain increased after repetitive use. He assessed tendinitis with a sprain. In an October 21, 2008 duty status report, Dr. Pannulo diagnosed tender lateral right epicondylitis. He advised that appellant was able to resume full-time work without restrictions. In an undated report, Dr. Pannulo indicated that appellant had experienced pain since the previous July and it had worsened over the last three weeks. He noted no recent trauma with a minor contusion to the elbow in July 2008. Dr. Pannulo also noted that appellant's job required repetitive lifting at work. He diagnosed tennis elbow and lateral epicondylitis.

On March 17, 2009 the Office advised appellant of the factual and medical evidence necessary to establish his claim and allowed him 30 days to submit such evidence. In particular, it requested a physician's report with an opinion addressing how his employment duties caused his claimed medical condition.

In a May 13, 2009 decision, the Office denied appellant's claim finding that he did not establish that the claimed medical condition related to the established work-related events.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her 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>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 diagnosed condition is causally related to the employment factors identified by the claimant.<sup>2</sup>

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<sup>1</sup> *J.E.*, 59 ECAB \_\_\_ (Docket No. 07-814, issued October 2, 2007); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>2</sup> *D.I.*, 59 ECAB \_\_\_ (Docket No. 07-1534, issued November 6, 2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

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>3</sup>

### ANALYSIS

The record reflects that appellant's job required keying mail into machines and pushing tubs of mail. Appellant did not, however, submit sufficient medical evidence to establish that his diagnosed right elbow condition is causally related to these employment activities.

Dr. Pannulo's October 21, 2008 duty status report diagnosed tender lateral right epicondylitis and advised that appellant could work full time without restrictions. He did not discuss whether appellant's diagnosed condition was caused or aggravated by his employment activities. 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>4</sup>

Similarly, in an undated report, Dr. Pannulo diagnosed tennis elbow and lateral epicondylitis and noted that appellant's work duties included repetitive lifting. He did not address the issue of causal relationship or otherwise explain how any such lifting duties caused or aggravated appellant's right elbow condition. As noted, medical evidence without an opinion on causal relationship is of limited probative value.

Dr. Pannulo's October 10, 2008 report indicates that appellant's right elbow condition originated from a work incident on July 3, 2008 when he hit his elbow on a machine. This appears to relate appellant's condition to a traumatic incident on a particular day instead of to an occupational disease occurring over more than one day as alleged by him in his October 10, 2008 occupational disease claim.<sup>5</sup> To the extent that he may be alleging a traumatic injury, Dr. Pannulo did not provide medical rationale to explain why the tendinitis or sprain that he assessed was caused or aggravated by the July 3, 2008 incident. Dr. Pannulo did not explain how the July 3, 2008 incident would cause or aggravate an elbow sprain or tendinitis that was not treated or diagnosed until October 2008.

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<sup>3</sup> *I.J.*, 59 ECAB \_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>4</sup> *S.E.*, 60 ECAB \_\_\_ (Docket No. 08-2214, issued May 6, 2009).

<sup>5</sup> See 20 C.F.R. § 10.5(q) (defines an occupational disease as occurring over a period longer than a single workday or shift) 20 C.F.R. § 10.5(ee) (defines a traumatic injury as a condition caused by a specific event or incident within a single workday).

On March 17, 2009 the Office advised appellant of the medical evidence necessary to establish his claim and allowed him 30 days to submit such evidence. Appellant did not submit any additional evidence prior to the Office's May 13, 2009 decision. The record does not contain a probative opinion from a physician explaining how his repetitive work duties caused or aggravated his right arm and elbow condition. As noted, appellant's burden of proof requires the submission of rationalized medical evidence addressing whether there is a causal relationship between his diagnosed condition and employment factors. Consequently, he did not provide the medical evidence required to establish his claim.

**CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish that he sustained an occupational disease in the performance of duty.

**ORDER**

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

Issued: May 17, 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