

Repetitive shooting of firearms to pass annual qualification tests caused pain in his left elbow. Appellant also experienced locking of his elbow.

On September 15, 2008 the Office asked appellant to provide additional evidence, including a detailed description of his employment activities and a comprehensive medical report including a rationalized medical opinion as to whether his left elbow condition was caused or aggravated by his employment.

In an April 21, 2008 report, Dr. Kevin J. Rossi, a family practitioner, provided findings on physical examination and diagnosed arthralgia of the left upper arm. He noted that appellant had experienced left elbow pain for six months. Appellant had a similar problem in 2004 and was considering surgery at that time. An April 28, 2008 x-ray revealed mild degenerative changes in the elbow joint. There was no evidence of any focal lesion or injury. On May 8, 2008 Dr. James P. Patterson, an orthopedic specialist, provided findings on physical examination and diagnosed left elbow arthritis and a loose body. He noted that appellant experienced acute left elbow pain three or four years previously at work when he pushed and pulled a rolling cart. The condition was aggravated by motion and lifting. Surgery was recommended at that time but not performed. A June 2, 2008 magnetic resonance imaging (MRI) scan revealed effusion of the left elbow joint associated with several ossified loose bodies. There was no synovial hypertrophy, bony erosion or abnormality of the bone marrow. On July 16, 2008 appellant underwent left elbow arthroscopic surgery, including debridement, osteophyte resection, capsulectomy, synovectomy and loose body removal.

By decision dated December 3, 2008, the Office denied appellant's claim, finding that the evidence did not establish that his left elbow condition was causally related to factors of his federal employment.

Appellant requested a hearing with an Office hearing representative that was held on April 21, 2009.

Additional medical evidence was submitted following the hearing. In an April 17, 2009 report, Dr. Rossi stated that he treated appellant on November 1, 2004 for a left elbow condition sustained while pushing a food cart at work. Physical findings at that time included tenderness in the biceps insertion and decreased range of motion secondary to pain. X-rays revealed a positive fat pad sign and he was treated for a possible occult fracture. Dr. Rossi noted that appellant's left elbow condition improved but appellant believed his current left arm condition was related to the injury four years earlier. He stated that his review of medical records seemed to indicate that there was initial trauma to the left elbow in November 2004 and x-rays then were consistent with a possible fracture. Subsequent x-rays revealed loose bodies which could have occurred from the previous injury. Dr. Rossi opined that appellant's left elbow condition was causally related to the November 2004 left elbow injury.

On April 22, 2009 Dr. Artis Woodward interviewed appellant and reviewed his medical records. He stated that he treated appellant from November 1, 2004 to March 30, 2005 for a left elbow injury sustained at work while pushing a food cart. An orthopedic specialist recommended arthroscopic surgical repair but appellant declined. Appellant was returned to modified work duties to include no pushing, pulling or climbing. Dr. Woodward noted that,

since his return to work, he repeatedly pushed food carts, climbed ladders for security checks and participated in firearms qualification tests. He stated that it appeared medically evident that appellant's November 1, 2004 injury and the continuation of the same work activities led to the need for surgical intervention in 2008.

In an April 24, 2009 statement, Demetrio Alford, an employing establishment safety officer, stated that on November 1, 2004 appellant injured his left elbow at work. He submitted a traumatic injury claim under OWCP File No. xxxxxx165 that was accepted for a left elbow strain. Appellant was off work from November 1 to December 18, 2004.

By decision dated July 8, 2009, an Office hearing representative affirmed the December 3, 2008 decision.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease claim, an employee must submit the following: (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.¹ Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical 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.²

ANALYSIS

On May 8, 2008 Dr. Patterson diagnosed left elbow arthritis and a loose body. He noted that appellant experienced acute left elbow pain three or four years previously at work when he pushed and pulled a rolling cart. Surgery was recommended at that time but not performed. A June 2, 2008 MRI scan revealed effusion of the left elbow joint associated with ossified loose bodies. On July 16, 2008 appellant underwent left elbow arthroscopic surgery. Dr. Patterson did not provide a description of appellant's work activities or a rationalized explanation as to how his job caused or aggravated his left elbow condition. His report is not sufficient to establish that appellant's left elbow condition and surgery in 2008 was causally related to his federal employment.

¹ See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

² *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

On April 21, 2008 Dr. Rossi noted that appellant had experienced left elbow pain for six months. He did not opine as to the cause of the condition. On April 17, 2009 Dr. Rossi stated that he treated appellant on November 1, 2004 for a left elbow condition sustained when he pushed a food cart at work. He stated that subsequent x-rays revealed loose bodies which could have occurred from the previous injury. Dr. Rossi opined that appellant's left elbow condition in 2008 was causally related to the November 2004 left elbow injury. His opinion on causal relationship is speculative in that he indicated that the left elbow loose bodies "could" have occurred as a result of the 2004 incident. Dr. Rossi did not describe appellant's work duties since 2004 or provide a rationalized medical explanation as to how his work activities caused his left elbow condition and need for surgery in 2008. Therefore, his opinion on causal relationship is of diminished probative value and is insufficient to establish that appellant's left elbow condition was caused or aggravated by his federal employment.

On April 22, 2009 Dr. Woodward stated that he treated appellant from November 1, 2004 to March 30, 2005 for a left elbow injury sustained at work while pushing a food cart. Appellant was returned to modified work duties to include no pushing, pulling or climbing duties. Dr. Woodward noted that, since his return to work, he repeatedly pushed food carts, climbed ladders for security checks and participated in firearms qualification tests. He stated that it appeared medically evident that appellant's November 1, 2004 injury and the continuation of his same work activities led to the need for surgical intervention in 2008. Dr. Woodward did not explain, with medical rationale, how appellant's work activities caused or aggravated his left elbow condition in 2008 and necessitated surgery. For these reasons, his opinion on causal relationship is of diminished probative value and is not sufficient to establish a work-related left elbow condition.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a left elbow condition causally related to factors of his employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 8, 2009 is affirmed.

Issued: May 3, 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