

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

C.A., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
North Canton, OH, Employer)

**Docket No. 10-1341
Issued: January 6, 2011**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 15, 2010 appellant filed a timely appeal from a March 26, 2010 decision of the Office of Workers' Compensation Programs denying her traumatic injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant established that she sustained a chronic thoracic strain in the performance of duty.

On appeal, counsel asserts that the Office's March 26, 2010 decision is contrary to fact and law.

FACTUAL HISTORY

On August 5, 2009 appellant, then a 48-year-old carrier technician, filed an occupational disease claim (Form CA-2) alleging that an accepted August 23, 2002 thoracic strain became

chronic due to continuous exposure to work factors.¹ She first became aware of the condition and its relation to her federal employment on August 23, 2002. The employing establishment noted that appellant had been on light duty since the August 23, 2002 injury, carrying mounted delivery routes that also required some walking. Appellant recently asserted that she was unable to dismount the vehicle for deliveries or carry walking portions of a route. The employing establishment could no longer offer her light duty as of April 25, 2009.

In an August 17, 2009 letter, the Office advised appellant of the additional evidence needed to establish her claim, including a detailed description of the causative work factors and a rationalized medical report supporting causal relationship. Appellant responded on September 16, 2009, attributing her condition to carrying a mail satchel, repetitive twisting, turning and lifting at work as of August 23, 2002. She filed the August 5, 2009 claim as the employing establishment denied continued light duty.

In a May 26, 2009 report, Dr. John Riester, an attending Board-certified orthopedic surgeon, related appellant's complaints of thoracic pain since the August 2002 occupational back injury, for which he treated her beginning in August 2002. He related that the employing establishment sent appellant home early as she had difficulty with work activities and could not carry a mail satchel. On examination, he found limited spinal motion. Dr. Riester diagnosed a chronic thoracic strain and opined that it was a work-related claim. He restricted appellant to lifting 30 pounds and walking no more than one hour at a time.

By decision dated September 22, 2009, the Office denied appellant's claim on the grounds that fact of injury was not established. It found that appellant did not establish the claimed work incidents as factual or provide medical evidence diagnosing any condition related to her federal employment.

In a September 30, 2009 letter, appellant requested an oral hearing. She stated that she was continuously exposed to work factors as a modified carrier. The hearing representative advised appellant of the additional evidence needed to establish her claim and 30 days for submission. Appellant did not submit additional evidence prior to March 26, 2010.

By decision dated and finalized March 26, 2010, an Office hearing representative affirmed the September 22, 2009 decision, finding that appellant did not establish a new injury or condition. The medical evidence was found insufficient to support a new occupational condition.

¹ In File No. xxxxxx475, the Office accepted that appellant sustained a traumatic thoracic strain on August 23, 2002 when she lifted a tray of mail. It terminated wage-loss and medical benefits effective May 20, 2003 as the medical evidence established the accepted injury ceased without residuals. This claim is not before the Board on the present appeal.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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.³ 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.⁴

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) 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 causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 claimant.⁵

ANALYSIS

Appellant claimed that carrying a mail satchel, twisting, turning and lifting at work on and after August 23, 2002 caused an accepted thoracic strain to become chronic. The employing establishment confirmed that appellant worked delivering mounted mail routes since the August 23, 2002 injury, requiring her to carry mail, walk and drive. Appellant has established as factual that she performed these duties on an ongoing basis since August 23, 2002.⁶ The issue is whether she submitted sufficient medical evidence to establish that these factors caused a chronic thoracic strain.

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Solomon Polen*, 51 ECAB 341 (2000).

⁶ *M.W.*, 57 ECAB 710 (2006).

Dr. Riester, an attending Board-certified orthopedic surgeon, noted the accepted 2002 injury and that appellant had difficulty with work activities, including carrying a mail satchel. He diagnosed a chronic thoracic strain and opined that it was work related; however, Dr. Riester did not provide medical rationale explaining how or why the identified work factors would cause a new thoracic strain or cause the August 23, 2002 injury to become chronic. Without such rationale, his opinion is insufficient to establish causal relationship.⁷

Dr. Riester noted work restrictions against lifting more than 30 pounds and walking for more than one hour. The record indicates that appellant's duties changed after light-duty work was withdrawn on April 25, 2009. However, there is insufficient factual evidence that appellant's job duties required prolonged walking or lifting greater than 30 pounds.

The Office advised appellant by August 17, 2009 letter of the deficiencies in her claim and of the additional evidence needed, including a rationalized report from her attending physician supporting causal relationship. However, appellant did not submit such evidence. For this reason, the Board will affirm the denial of appellant's claim for compensation.⁸

On appeal, counsel asserts that the Office's March 26, 2010 decision is contrary to fact and law. As noted, the Office properly denied appellant's claim as she did not submit sufficient rationalized medical evidence to establish the causal relationship asserted.

CONCLUSION

The Board finds that appellant has not established that she sustained a chronic thoracic strain in the performance of duty.

⁷ *Deborah L. Beatty*, 54 ECAB 340 (2003).

⁸ *M. W.*, *supra* note 6.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 26, 2010 is affirmed.

Issued: January 6, 2011
Washington, DC

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

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

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