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D.J., Appellant	)	
	)	
and	)	Docket No. 11-609
	)	Issued: October 6, 2011
U.S. POSTAL SERVICE, POST OFFICE,	)	
Broadview Heights, OH, Employer	)	
	)	

Case Submitted on the Record

DECISION AND ORDER

RICHARD J. DASCHBACH, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

On January 13, 2011 appellant, through her representative, filed a timely appeal from an October 7, 2010 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her traumatic injury claim. Pursuant to the Federal Employees' Compensation Act (FECA)¹ and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

The issue is whether appellant has established that she sustained left lateral epicondylitis in the performance of duty.

¹ 5 U.S.C. §§ 8101-8193.

FACTUAL HISTORY

On August 16, 2010 appellant, then a 61-year-old modified clerk, filed a traumatic injury claim (Form CA-1) for left forearm pain with radiation into the left hand and shoulder, sustained that day in the performance of duty. She stopped work on August 16, 2010. On the reverse of the form and in an associated statement, appellant's supervisor noted that appellant's job was part of the National Reassessment Process and did not entail repetitive work.

In an August 31, 2010 letter, OWCP advised appellant of the evidence needed to establish her claim, including a detailed description of the work factors alleged to have caused or aggravated the claimed condition and rationalized medical evidence explaining how those factors caused the claimed left lateral epicondylitis. It afforded her 30 days in which to submit such evidence.

Appellant submitted August 16, 2010 emergency room forms signed by Dr. Christine Boyko, an osteopathic physician, who diagnosed left lateral epicondylitis or left carpal tunnel syndrome.² The forms note that appellant experienced symptom onset while at work that day. Dr. Boyko held appellant off work for two days and restricted use of the left upper extremity.

Dr. J. Robert Anderson, an attending Board-certified orthopedic surgeon, submitted reports dated August 18 to September 3, 2010, relating appellant's account of left arm symptoms beginning on August 16, 2010 after lifting and carrying mail. He found tenderness over the left lateral epicondyle. Dr. Anderson diagnosed moderate left lateral epicondylitis and renewed restrictions against lifting, grasping, pulling and pushing with the left arm. On September 3, 2010 he opined that "the mechanism for onset of tendinitis with relative overuse is certainly consistent with the diagnosis." Dr. Anderson also prescribed a tennis elbow strap and medication. He released appellant to work on August 24, 2010.

In September 15 and 23, 2010 statements, appellant described the onset of severe left arm pain while pushing an accountables cage on August 16, 2010. She noted a 16-year history of carpal tunnel syndrome, de Quervain's tendinitis and right hand tendinitis, with two accepted claims for January 5, 1989 and May 16, 1990 left hand injuries.

By decision dated October 7, 2010, OWCP denied appellant's claim on the grounds that causal relationship was not established. It accepted as factual that she pushed an accountables cage on August 16, 2010. However, OWCP found that Dr. Anderson's and Dr. Boyko's reports were insufficiently rationalized to establish a causal relationship between pushing the mail cage and the onset of left lateral epicondylitis.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA; 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

² August 16, 2010 x-rays of the left elbow and forearm were normal.

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

In order to determine whether an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether “fact of injury” has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident that is alleged to have occurred.⁵ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

ANALYSIS

OWCP accepted that on August 16, 2010, appellant pushed an accountables mail cage as part of her assigned duties. She has established a compensable work incident. In order to prevail, she must also submit sufficient medical evidence to establish that pushing the mail cage caused or aggravated left lateral epicondylitis. The Board finds, however, that appellant did not submit such evidence.

Appellant submitted August 16, 2010 emergency room reports from Dr. Boyko, an osteopathic physician and the August 18 to 23, 2010 reports from Dr. Anderson, an attending Board-certified orthopedic surgeon. Dr. Boyko noted that she experienced symptoms at work, but did not explain how and why her work factors were competent to cause the diagnosed left arm conditions. Dr. Anderson related appellant’s account of lifting and carrying mail at work. He stated on September 3, 2010 that her assertions of overuse were consistent with the diagnosis. However, Dr. Anderson did not explain how and why pushing the accountables cage on August 16, 2010 would cause left lateral epicondylitis. Without such rationale, his opinion is insufficient to establish causal relationship.⁷

The Board notes that OWCP advised appellant by August 31, 2010 letter of the necessity of submitting rationalized medical evidence supporting a causal relationship between the identified work factors and the claimed left lateral epicondylitis. However, appellant did not submit such evidence. Therefore, the Board finds that she has not established that she sustained left lateral epicondylitis due to pushing the accountables cage on August 16, 2010.⁸

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 *Gary J. Watling*, 52 ECAB 278 (2001).

⁶ *Deborah L. Beatty*, 54 ECAB 340 (2003).

⁷ *Id.*

⁸ *Guiseppe Aversa*, 55 ECAB 164 (2003).

On appeal, counsel asserts that OWCP's October 7, 2010 decision was "contrary to fact and law." As stated, appellant submitted insufficient medical evidence establishing that the accepted work incident caused left lateral epicondylitis. Therefore, the October 7, 2010 decision was proper under the law and facts of this case.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not establish that she sustained left lateral epicondylitis in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 7, 2010 is affirmed.

Issued: October 6, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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