

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

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T.C., Appellant )

and )

U.S. POSTAL SERVICE, FOX STATION, )  
Los Angeles, CA, Employer )

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**Docket No. 11-2143  
Issued: April 19, 2012**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
ALEC J. KOROMILAS, Judge  
COLLEEN DUFFY KIKO, Judge

**JURISDICTION**

On September 23, 2011 appellant filed a timely appeal of an April 1, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c)(1) and 501.3, the Board has jurisdiction to consider the merits of the case.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish a shoulder condition as a result of her federal job duties.

**FACTUAL HISTORY**

On August 24, 2010 appellant, then a 42-year-old letter carrier, filed an occupational disease claim alleging that she developed impingement syndrome and osteoarthritis of the shoulder. She indicated that she first became aware of her condition in March 2007 and first

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

related it to her employment duties on August 4, 2010. Appellant attributed her shoulder conditions to years of repeated overhead reaching and repetitive continuous usage of her shoulders, arms and hands in the performance of her duties, including sorting and casing letters and flats, loading the mail truck and carrying a mail satchel on her shoulder.

Dr. Bradley E. Steele, a Board-certified orthopedic surgeon, diagnosed impingement syndrome of the shoulder and osteoarthritis of the shoulder region on August 4, 2010. He stated that the mechanism of injury was due to overhead casing at work causing shoulder pain. Appellant underwent a magnetic resonance imaging (MRI) scan of the right shoulder on May 28, 2010 which demonstrated tendinitis of the supraspinatus tendon and hypertrophic changes of the acromioclavicular joint.

In a letter dated October 14, 2010, OWCP requested additional factual and medical evidence from appellant and allowed 30 days for a response. No response was received. By decision dated November 29, 2010, OWCP denied appellant's claim finding that she failed to submit sufficient medical evidence to establish a causal relationship between her diagnosed condition and her accepted employment injury.

Appellant requested reconsideration on January 24, 2011. In a report dated November 18, 2010, Dr. Hannah H. Kim, a physician Board-certified in occupational medicine, noted appellant's employment duties of carrying a heavy satchel and reaching with the upper extremity as well as heavy lifting, pushing and pulling. She reviewed the MRI scan and diagnosed calcific tendinitis of the right shoulder. Dr. Kim stated, "More likely than not this is an industrial injury and advised to be treated under workers' compensation."

By decision dated April 1, 2011, OWCP reviewed the merits of appellant's claim, but denied modification of the November 29, 2010 decision.

### **LEGAL PRECEDENT**

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 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 evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.<sup>2</sup>

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<sup>2</sup> *Lourdes Harris*, 45 ECAB 545, 547 (1994).

## ANALYSIS

Appellant alleged that she developed impingement syndrome and osteoarthritis of the right shoulder due to her employment duties as a letter carrier. She stated that she repeatedly reached overhead and performed repetitive continuous usage of her shoulders, arms and hands in the performance of her duties sorting and casing letters and flats, loading the mail truck and carrying a mail satchel on her shoulder. Appellant submitted a report from Dr. Steele diagnosing impingement syndrome of the shoulder and osteoarthritis of the shoulder region. She has a diagnosed medical condition and specified employment duties to which she attributed this condition.

The Board finds, however, that appellant has not established a causal relationship between her diagnosed condition and her accepted employment factors. While Dr. Steele provided a diagnosis and attributed this condition to casing mail overhead casing at work, he did not provide any medical reasoning explaining how or why casing mail overhead would result in the diagnosed condition of impingement syndrome of the right shoulder. Without medical reasoning, his report is not sufficient to meet appellant's burden of proof.

Appellant also submitted a report from Dr. Kim dated November 18, 2010 diagnosing calcific tendinitis of the right shoulder. Dr. Kim listed appellant's employment duties of carrying a heavy satchel and reaching with the right upper extremity as well as heavy lifting, pushing and pulling in the performance of duty. She stated, "More likely than not this is an industrial injury and advised to be treated under workers' compensation." Dr. Kim did not offer a clear opinion that appellant's condition was related to her specified employment duties. Instead she equivocated, opining that more likely than not appellant's right shoulder condition was due to her employment. The Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.<sup>3</sup> As Dr. Kim did not clearly state whether she believed that appellant's condition was due to her employment activities and did not support this opinion with medical reasoning explaining how and why the employment duties caused or aggravated the diagnosed condition of calcific tendinitis, her report is not sufficient to meet appellant's burden of proof.

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 has not submitted sufficient medical opinion evidence to establish a causal relationship between her diagnosed right shoulder conditions and her alleged employment duties. Appellant has, therefore, failed to meet her burden of proof.

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<sup>3</sup> *D.D.*, 57 ECAB 734 (2006).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 1, 2011 is affirmed.

Issued: April 19, 2012  
Washington, DC

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

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board