



## **FACTUAL HISTORY**

On October 3, 2010 appellant, then a 37-year-old mail processing machine operator, filed a traumatic injury claim alleging that on October 2, 2010 he injured his neck, left shoulder and arm while cleaning stackers.<sup>3</sup>

In support of his claim, appellant submitted an October 3, 2010 emergency room report and diagnostic tests. The emergency room discharge summary reported diagnoses of chest pain and musculoskeletal neck pain. The first part of a stress test performed on October 3, 2010 revealed “clinically negative but electrocardiographically positive stress test.” The second part of a stress test performed the same day revealed no evidence of a myocardial infarction or ischemia. An electrocardiogram performed on October 3, 2010 revealed sinus rhythm within normal limits.

On November 2, 2010 OWCP informed appellant that the evidence submitted was insufficient to support his claim. Appellant was advised as to the type of medical and factual evidence to submit and given 30 days to provide the requested information.

In a November 20, 2010 statement, Lucenda Stephens stated that on October 2, 2010 appellant told her about his neck burning while clearing mail from a machine. Appellant later on related having pain going from his neck to his shoulder down into his arm with tingling and numbness. He subsequently requested medical treatment as he believed he was having a heart attack. At this point appellant was instructed to go to the hospital.

By decision dated December 10, 2010, OWCP denied appellant’s claim on the grounds that he failed to establish fact of injury. It found that the record was devoid of any medical evidence diagnosing a medical condition.

On January 4, 2011 appellant requested an oral hearing before an OWCP hearing representative. A telephonic hearing was scheduled for April 21, 2010, which he did not attend.

By decision dated June 23, 2011, an OWCP hearing representative affirmed the December 10, 2010 decision, modifying it to find that appellant failed to establish that the incident occurred as alleged and that there was no medical evidence diagnosing a medical condition.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of establishing the essential elements of his 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 disability and/or

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<sup>3</sup> Appellant subsequently filed an occupational disease claim alleging the same facts. OWCP assigned File No. xxxxxx425. It later deleted that number finding that it was a duplicate of the traumatic injury claim.

<sup>4</sup> *Supra* note 1.

specific condition for which compensation is claimed are causally related to the employment injury.<sup>5</sup> 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>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.<sup>7</sup> First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>8</sup> 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.<sup>9</sup>

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.<sup>10</sup> An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.<sup>11</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish that causal relationship is rationalized medical opinion evidence.<sup>12</sup> 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.<sup>13</sup> 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>14</sup>

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<sup>5</sup> C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>6</sup> S.P., 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>7</sup> B.F., Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 5.

<sup>8</sup> D.B., 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

<sup>9</sup> C.B., Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 5.

<sup>10</sup> *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *Katherine J. Friday*, 47 ECAB 591 (1996).

<sup>11</sup> P.K., Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>12</sup> Y.J., Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

<sup>13</sup> J.J., Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>14</sup> I.J., 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

## ANALYSIS

Appellant alleged that he sustained a neck, left shoulder and arm injury while cleaning stackers on October 2, 2010. OWCP's hearing representative found the evidence insufficient to establish that the incident occurred as alleged and that the evidence of record was devoid of any medical evidence diagnosing the claimed conditions. Appellant has consistently maintained that he was clearing the stackers of mail on October 2, 2010 when he allegedly sustained an injury to his neck and left shoulder. As there is no dispute as to the employment activity he engaged in at the time of the alleged injury, the Board finds that the incident occurred as alleged. The issue is whether appellant has established that he sustained a neck, left shoulder and arm injury causally related to the October 2, 2010 employment incident. The Board finds that he has failed to meet his burden of proof.

The medical evidence of record fails to provide a history of injury, medical diagnosis or a physician's opinion explaining how appellant sustained an injury to his shoulder, arm and neck as a result of the accepted October 2, 2010 incident. It also contains no firm diagnosis, rationale or explanation of the mechanism of injury arising from the employment incident on October 2, 2010.<sup>15</sup>

The only medical evidence with a firm diagnosis is an October 3, 2010 emergency room discharge summary diagnosing chest pain and musculoskeletal neck pain. This report is without a physician's signature or other proper identification. The Board has held that a medical report with no indication that the person completing the report qualifies as a physician as defined in 5 U.S.C. § 8102(2) or without proper identification of who provided the signature does not constitute probative medical evidence.<sup>16</sup> This medical report did not contain any information from which it could be inferred that a physician completed the report and signed the paper. Thus, it is of no probative value to establish that appellant sustained any injury on October 2, 2010.

OWCP advised appellant of the evidence required to establish his claim; however, he failed to submit such evidence. As appellant has failed to submit any probative medical evidence establishing that he sustained an injury in the performance of duty on October 2, 2010 he has failed to meet his 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.

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<sup>15</sup> See *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *S.D.*, 58 ECAB 713 (2007); *Cecelia M. Corley*, 56 ECAB 662 (2005) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

<sup>16</sup> *E.K.*, Docket No. 09-1827 (issued April 21, 2010); *D.D.*, 57 ECAB 734 (2006); *Richard J. Charot*, 43 ECAB 357 (1991).

**CONCLUSION**

The Board finds that appellant has not established that he sustained neck and left upper extremity injuries in the performance of duty on October 2, 2012 as alleged.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 23, 2011 is affirmed, as modified.

Issued: March 26, 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