

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

J.G., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
North Augusta, SC, Employer**

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**Docket No. 13-1671
Issued: December 24, 2013**

Appearances:

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

Case Submitted on the Record

DECISION AND ORDER

Before:

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

JURISDICTION

On July 3, 2013 appellant, through her attorney, filed a timely appeal from the May 30, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP), which denied her injury claim. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review this merit decision.

ISSUE

The issue is whether appellant established that the August 24, 2012 work incident caused an injury.

FACTUAL HISTORY

On October 10, 2012 appellant, then a 58-year-old sales/service distribution associate, filed a traumatic injury claim alleging that she sustained a neck injury in the performance of duty on August 24, 2012. She was helping a customer with a large package weighing approximately

¹ 5 U.S.C. § 8101 *et seq.*

15 pounds. Appellant picked up the package, turned and felt excruciating pain run down from her neck to her right arm, which caused her to drop the package.

A September 6, 2012 magnetic resonance imaging (MRI) scan study of appellant's cervical spine showed severe multilevel degenerative disc disease with facet osteoarthritic changes causing moderate narrowing of the spinal canal from C3-4 through C6-7, most pronounced at C4-6. There was relatively severe bilateral neural foraminal narrowing at multiple levels and a reversal of the normal cervical lordosis likely related to severe degenerative changes.

A September 6, 2012 MRI scan of the right shoulder showed findings suggestive of prior right shoulder repair with no evident of full-thickness re-tear seen. Changes at the acromioclavicular joint possibly represented a combination of prior decompression and degenerative changes. There was degeneration of the superior labrum without discrete tear and minimal degenerative changes of the glenohumeral joint.

On September 10, 2012 Dr. Douglas E. Holford, a Board-certified orthopedic surgeon, stated that the type of job appellant held, which involved repetitive activities "side to side and raise it up," aggravated the cervical spine along with the tendinopathy.

OWCP notified appellant on October 16, 2012 that the documentation it received was insufficient to support her claim because no diagnosis was provided of any condition resulting from the claimed incident. It asked her to submit, among other things, her physician's opinion, supported by a medical explanation, as to how the August 24, 2012 work incident caused or aggravated a diagnosed medical condition. OWCP advised that this medical evidence was crucial to appellant's claim.

Appellant responded on September 10, 2012 that her neck, right shoulder and right arm were affected by the incident. She had two previous rotator cuff surgeries, one in 1998 and the other in 2007. After her surgeries, appellant was no longer able to deliver mail, so she accepted a clerk assignment, where she remained on the window. On August 24, 2012 she received a large package from a customer. It weighed about 15 pounds. When appellant removed the package from the weight scale, she felt a sharp, excruciating pain run from her neck through her right arm. It felt like she had pulled something in her neck. The following day appellant was unable to move her head or right arm.

Appellant submitted medical documents pertaining to a previous right rotator cuff repair and cervical spondylosis. She submitted an October 12, 2012 duty status report from Dr. Holford indicating a diagnosis of radiculopathy. Appellant also submitted documents relating to a previous injury claim.

In a December 3, 2012 decision, OWCP denied appellant's injury claim. It found that the August 24, 2012 work incident occurred as alleged, but the medical evidence of record failed to establish causal relationship. The evidence did not include appellant's physician's medically reasoned opinion on any cause-and-effect relationship between the accepted work incident and the diagnosed cervical condition.

On March 14, 2013 Dr. Holford described what happened at work on August 24, 2012: while lifting a box, appellant felt pain in her right shoulder and neck and began to have problems with paresthesia and lifting her arm. He noted x-ray findings and stated that she was diagnosed with rotator cuff tendinitis and cervical disc disease. Dr. Holford described imaging findings and the results of electrodiagnostic testing, which showed no evidence of radiculopathy but which did indicate right carpal tunnel syndrome, moderate to severe. He described appellant's treatment and opined: "To a reasonable degree of medical certainty, I feel that the repetitive movements and lifting packages, which her job requires, has aggravated the degenerative disc in her cervical spine and the degenerative joint disease of the right shoulder and the right carpal tunnel syndrome."

In a May 30, 2013 decision, OWCP's hearing representative affirmed the December 3, 2012 denial of appellant's claim. She found that, although Dr. Holford provided a history of the August 24, 2012 incident and a diagnosis of cervical degenerative disc disease, he failed to provide sufficient medical rationale for his stated conclusion.

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.² An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He or she must also establish that such event, incident or exposure caused an injury.³

Causal relationship is a medical issue⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

ANALYSIS

OWCP accepted that the August 24, 2012 work incident occurred as alleged. Appellant experienced the lifting incident at the time, place and in the manner alleged. The question that

² *Id.* at § 8102(a).

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

remains is whether removing a package from the weight scale that day caused an injury. This is a medical question.

Dr. Holford related a basic history of injury that is not inconsistent with appellant's account: on August 24, 2012 she lifted a box and felt pain in her right shoulder and neck and began to have problems with paresthesia and lifting her arm. His conclusion was that repetitive movements and lifting packages had aggravated the degenerative disc in her cervical spine, the degenerative joint disease in her right shoulder and her right carpal tunnel syndrome.

Appellant's claim, however, alleges an injury from a specific incident on August 24, 2012. Dr. Holford did not discuss the mechanism of that injury. He did not explain from an anatomical or orthopedic point of view how the biomechanics of the accepted incident pathophysiologically affected appellant's cervical degenerative disc disease or her right shoulder degenerative joint disease or her right carpal tunnel syndrome. Dr. Holford brief notes do not relate a full history of appellant's cervical or shoulder conditions. He did not explain how clinical studies, objective physical findings or other reliable evidence confirmed an aggravation. Dr. Holford did not explain whether the nature of any aggravation was temporary, eventually leaving appellant in her preexisting baseline state or whether the incident caused a material change to her underlying degenerative condition. Due to these deficiencies, the Board finds that the opinion of Dr. Holford is not sufficient to establish appellant's claim of injury.

Medical conclusions unsupported by rationale are of little probative value.⁸ The Board finds that Dr. Holford's opinion is broadly supportive of appellant's injury claim insufficient to establish the critical element of causal relationship. It does not offer sound medical reasoning to establish that the August 24, 2012 work incident caused an injury. Accordingly, the Board finds that appellant has not met her 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 met her burden of proof to establish that the August 24, 2012 work incident caused an injury.

⁸ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954). See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

ORDER

IT IS HEREBY ORDERED THAT the May 30, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 24, 2013
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