United States Department of Labor
Employees' Compensation Appeals Board

T.V., Appellant	)	
and	)	**Docket No. 16-0656**
	)	**Issued: July 27, 2016**
U.S. POSTAL SERVICE, POST OFFICE, Midlothian, VA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 19, 2016 appellant filed a timely appeal of a December 15, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant met her burden of proof to establish an occupational disease causally related to factors of her federal employment.

FACTUAL HISTORY

On September 8, 2015 appellant then a 53-year-old rural carrier, filed a Form CA-2, occupational disease claim, alleging that she developed a left rotator cuff tear as a result of repetitively lifting mail off the floor, repetitively lifting above her head and shoulders for

[1] 5 U.S.C. § 8101 *et seq.*

delivery point sequence (DPS) trays, and pulling mail down from the case. She became aware of her condition on December 5, 2014 and realized it was causally related to her employment on August 30, 2015. Appellant stopped work on September 8, 2015.

On January 7, 2015 appellant was treated by Dr. Steven Fiore, a Board-certified orthopedist, for lumbar pain. She reported persistent symptoms since August 1, 2014 which were not the result of an accident or injury. Dr. Fiore noted appellant's pain was in the midline of the low back with aching in the right shoulder, pain and tenderness of the anterior acromioclavicular joint, normal bilateral straight leg testing, intact deep tendon reflexes in the bilateral lower extremities, and intact sensation in the legs. An x-ray of the lumbar spine showed mild degeneration of the lumbar spine. Dr. Fiore diagnosed left annular tear and rotator cuff tendinitis and performed a steroid injection into the bursa. He recommended physical therapy and returned appellant to work light duty on January 12, 2015.

Appellant was treated by Dr. Marion Herring, a Board-certified orthopedist, on March 2, 2015 for left shoulder pain. Appellant reported the pain had been present since December 2014, but she could not recall a specific injury causing her pain. Appellant noted significant relief in pain after the steroid injection into the left bursa. Dr. Herring noted examination of the left shoulder revealed positive Hawkins and Neer sign, scapulothoracic dyskinesia, no tenderness over the acromioclavicular joint, and no muscle atrophy or gross deformity. With regard to the right shoulder, he noted well-healed incisions from a right shoulder rotator cuff tear in 2008, normal passive and active range of motion, no anterior or posterior instability, no pain over the acromioclavicular joint, normal range of motion of the elbow and wrist, and intact sensation and motor testing. The left shoulder x-ray revealed no glenohumeral or acromioclavicular arthritis, no subluxation, fracture, or dislocation. Dr. Herring diagnosed left shoulder pain and shoulder impingement syndrome and returned appellant to work full duty.

Appellant was treated by Dr. Marianne L. Siegrist, a Board-certified family practitioner. on May 29, 2015 for left arm, shoulder, and elbow pain. Dr. Siegrist diagnosed left bicipital tendinitis, severe musculoskeletal degenerative changes of the cervical and thoracic spine secondary to a work-related injury, and left acromioclavicular bursitis. She recommended a depomedrol injection. In an excuse slip dated May 29, 2015, Dr. Siegrist noted that appellant was disabled from May 2 to 4, 2015 and was released to work on June 5, 2015. In notes dated September 2 and 9, 2015, she diagnosed torn left supraspinatus tendon and recommended surgery.

Appellant submitted a magnetic resonance imaging (MRI) scan of the left humerus dated August 30, 2015 which revealed a glenohumeral effusion and tear of the supraspinatus. A left shoulder MRI scan dated August 30, 2015 revealed subacromial spurring of the anterior acromion process, glenohumeral effusion, a large full-thickness tear of the supraspinatus, torn fibers retracted to the glenoid with atrophy, and tendinopathy of the superior subscapularis with edema.

By letter dated October 6, 2015, OWCP advised appellant of the type of evidence needed to establish her claim. It particularly requested that appellant submit a reasoned physician's opinion addressing the relationship of her claimed condition and specific employment factors.

In a responsive statement completed on September 19, 2015, appellant described her rural letter carrier duties which she alleged to have performed eight hours per day for five days a week. She was required to stand and sort mail for three hours a day, mail delivery for five hours per day, bending and lifting mail tubs, and sorting flat mail and inserts.

Appellant submitted an October 5, 2015 certification of health care provider from Dr. Herring who noted that appellant was totally disabled from performing her letter carrier duties after surgery for 12 weeks from October 23, 2015 to January 23, 2016. In a report dated September 22, 2015, he treated appellant for left shoulder pain. Appellant again reported pain present since December 2014, but she could not recall a specific injury causing her pain. She noted moderate relief in pain after two steroid injections into the bursa. Dr. Herring noted that left shoulder examination revealed subacromial crepitation and positive Hawkins and Neer impingement sign. With regard to the right shoulder, Dr. Herring noted no atrophy or scars, no tenderness over the sternoclavicular acromioclavicular or bicipital groove, normal passive and active range of motion, no anterior or posterior instability, no pain over the acromioclavicular joint, normal range of motion of the elbow and wrist, and intact sensation and motor testing. Dr. Herring diagnosed sprain of the left rotator cuff capsule and recommended surgery.

In a decision dated December 15, 2015, OWCP denied the claim as appellant had failed to meet her burden of proof to establish an injury or medical condition causally related to the accepted work factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his 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. Appellant must also establish that such event, incident, or exposure caused an injury.[2]

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 claimant.

The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which

[2] *See Walter D. Morehead,* 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). *See generally John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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.[3]

ANALYSIS

It is undisputed that appellant's work duties as a rural letter carrier included repetitively lifting mail off the floor, lifting mail trays above her head and shoulders, and pulling mail down from the case. It is also undisputed that appellant was diagnosed with left shoulder annular tear, rotator cuff tendinitis, and impingement syndrome. However, appellant has not submitted sufficient medical evidence to establish that her diagnosed conditions are causally related to specific employment factors.

Appellant was treated by Dr. Siegrist on May 29, 2015 for left arm pain extending from her shoulder to elbow. Dr. Siegrist diagnosed bicipital tendinitis, severe musculoskeletal degenerative changes of the cervical and thoracic spine secondary to a work-related injury, and acromioclavicular bursitis. The Board finds that, although Dr. Siegrist supported causal relationship noting that appellant's condition was secondary to a work injury, she did not provide medical rationale explaining the basis of her conclusory opinion regarding the causal relationship between appellant's bicipital tendinitis, acromioclavicular bursitis and a torn supraspinatus tendon, and the factors of employment.[4] Dr. Siegrist did not explain the process by which repetitively lifting mail off the floor, and lifting above her head and shoulders for mail trays would cause the diagnosed condition and why such condition would not be due to any nonwork factors such as age-related degenerative changes. Other reports from Dr. Siegrist are of limited probative value as they did not specifically address whether employment factors caused or aggravated the diagnosed conditions.[5] Therefore, these reports are insufficient to meet appellant's burden of proof.

On January 7, 2015 appellant was treated by Dr. Fiore for lumbar pain. She reported that her symptoms began on August 1, 2014 and were not the result of an accident or injury. Dr. Fiore diagnosed annular tear and rotator cuff tendinitis and returned appellant to light duty. Similarly, a March 2, 2015 report from Dr. Herring noted appellant's complaints of left shoulder pain beginning in December 2014 and advised that appellant could not recall a specific injury. Dr. Herring noted findings and diagnoses. In reports dated September 22 and October 5, 2015, he treated appellant for left shoulder pain which began in December 2014. Dr. Herring diagnosed left rotator cuff sprain and recommended surgery. However, these reports are

[3] *Solomon Polen*, 51 ECAB 341 (2000).

[4] *See T.M.*, Docket No. 08-975 (issued February 6, 2009) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

[5] *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

insufficient to establish the claim as the physicians did not provide a history of injury[6] or specifically address whether appellant's employment activities had caused or aggravated a diagnosed medical condition.[7]

The remainder of the medical evidence, including reports of diagnostic testing, are of limited probative value as they fail to provide an opinion on the causal relationship between appellant's job and her diagnosed left shoulder condition. For this reason, this evidence is not sufficient to meet appellant's burden of proof.[8]

On appeal appellant asserts that OWCP improperly denied the claim and that the submitted medical evidence is sufficient evidence to establish that she developed left shoulder conditions as a result of performing repetitive duties at work. As noted above, the medical evidence does not establish that appellant's diagnosed conditions are causally related to her employment. Appellant has not submitted a physician's report, based on an accurate history, which explains how work activities caused or aggravated her left shoulder condition.

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 meet her burden of proof to establish that her claimed conditions were causally related to her employment.

[6] *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

[7] *See supra* note 5.

[8] *Supra* note 5.

ORDER

IT IS HEREBY ORDERED THAT the December 15, 2015 decision of OWCP is affirmed.

Issued: July 27, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board