

ISSUE

The issue is whether appellant met his burden of proof to establish a left shoulder injury causally related to the accepted April 27, 2015 employment incident.

FACTUAL HISTORY

On May 6, 2015 appellant, a 52-year-old baggage screener, filed a traumatic injury claim (Form CA-1) alleging that he injured his left arm and left shoulder on April 27, 2015 while moving a bag from a table to a conveyer belt.

By letter to appellant dated June 9, 2015, OWCP advised appellant that, while it had initially handled his claim administratively and authorized payment of a limited amount of medical expenses, it was reopening his claim because his medical bills had exceeded \$1,500.00. It noted that the merits of the claim now needed to be formally considered and advised that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. OWCP asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition, and an opinion as to whether his claimed condition was causally related to his federal employment. It afforded appellant 30 days to submit the additional evidence.

In a May 26, 2015 report, Dr. Jeffrey A. Deren, Board-certified in orthopedic surgery, noted that appellant was experiencing left shoulder pain. He noted that he had received little or no improvement following a cortisone injection. Appellant underwent a magnetic resonance imaging (MRI) scan of the left shoulder which showed a moderate-sized, full-thickness tear of the left supraspinatus and subscapularis tendons, left shoulder. Dr. Deren restricted him from heavy lifting or repetitive overhead activities.

In a May 28, 2015 report, Dr. Patrick F. Emerson, a specialist in orthopedic surgery, advised that appellant injured his left shoulder when he was trying to slide a bag and felt a tearing and popping sensation within the left shoulder. He noted that appellant denied having any previous pain or difficulties with the shoulder and had pain-free, full range of motion in the shoulder prior to the February 27, 2015 work incident.³ Dr. Emerson noted that x-rays showed good maintenance of the glenohumeral joint space and some narrowing of the acromioclavicular joint and lateral downsloping acromion. He advised that appellant underwent a left shoulder MRI scan on May 12, 2015 which demonstrated a moderate full-thickness tear of the rotator cuff involving the supraspinatus tendon in the anterior infraspinatus. Dr. Emerson diagnosed a full-thickness rotator cuff tear with acromioclavicular arthritic change and biceps tendinitis. He noted that appellant achieved no significant improvement with conservative treatment and advised that he discussed the possibility of surgery to ameliorate his rotator cuff tear.

In a report dated June 22, 2015, Dr. Emerson noted that appellant had complaints of left shoulder pain and advised that his symptoms were essentially unchanged. He reported that he continued to have difficulty with any forward flexion or abduction. Dr. Emerson diagnosed a

³ The Board notes that Dr. Emerson mistakenly reported that the date of injury was February 27, 2015.

full-thickness rotator cuff tear on the left side with AC joint arthritis and biceps tendinitis. He recommended that appellant undergo surgery to repair his left rotator cuff.

In a work restriction note dated June 22, 2015, received by OWCP on August 3, 2015, Dr. Emerson indicated that appellant could work eight hours on light duty with restrictions of no lifting with his left shoulder, no reaching, reaching above the shoulder, and no more than two hours of pushing, pulling, lifting, and climbing.

By decision dated July 20, 2015, OWCP denied the claim, finding that he failed to provide medical evidence sufficient to establish that he sustained a left shoulder injury causally related to the accepted April 27, 2015 work incident.

By letter dated August 7, 2015, appellant, through counsel, requested an oral hearing, which was held before an OWCP hearing representative on March 7, 2016.

In a May 8, 2015 report, received by OWCP on September 21, 2015, Dr. Deren related that appellant injured his left shoulder on April 27, 2015 while lifting and transferring a suitcase, feeling a tearing sensation and sharp pain in his left shoulder. He noted that appellant underwent x-rays which showed moderate, degenerative changes throughout the distal acromion and greater tuberosity of the proximal humerus, with what appeared to be subacromial spurring of the distal acromion noted. Dr. Deren advised that there were no acute fractures or dislocations. He opined that appellant had sustained a likely partial rotator cuff tear of the left shoulder. Dr. Deren administered an injection into the subacromial space of the left shoulder and scheduled him for a left shoulder MRI scan to evaluate the extent of tearing of the rotator cuff.

In a decision dated May 27, 2016, OWCP's hearing representative affirmed the July 20, 2015 decision. She found that appellant did not submit rationalized, probative medical evidence to establish that the April 27, 2015 employment incident caused or contributed to his claimed left shoulder condition and therefore did not meet his burden of proof to establish his claim.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish 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 timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *Victor J. Woodhams*, 41 ECAB 345 (1989).

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. 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.⁷ 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.⁸

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁹

An award of compensation may not be based on surmise, conjecture, or speculation. Neither, the fact that appellant’s condition became apparent during a period of employment nor the belief that his condition was caused, precipitated, or aggravated by his employment is sufficient to establish causal relationship.¹⁰

ANALYSIS

It is uncontested that appellant experienced pain in his left shoulder while moving a bag from a table to a conveyer belt on April 27, 2015. The question of whether this employment incident caused a personal injury can only be established by probative medical evidence.¹¹ The Board finds that appellant failed to submit rationalized, probative medical evidence to establish that the April 27, 2015 employment incident caused a personal injury.

Appellant submitted reports from Drs. Deren and Emerson. In his May 8, 2015 report, Dr. Deren related that appellant experienced a tearing sensation and sharp pain in his left shoulder on April 27, 2015 while lifting and transferring a suitcase. He noted that x-rays showed moderate, degenerative changes in the left shoulder and that he probably sustained a partial left rotator cuff tear. Dr. Deren advised in his May 26, 2015 report that a left shoulder MRI scan revealed a full-thickness tear of the left supraspinatus and subscapularis tendons in the left shoulder. In his May 28, 2015 report, Dr. Emerson advised that appellant injured his left shoulder while moving a bag and felt a tearing and popping sensation within the left shoulder. He noted that appellant denied having any previous pain or difficulties with the shoulder and had pain-free, full range of motion in the shoulder prior to the work incident. Dr. Emerson noted that x-rays showed good maintenance of the glenohumeral joint space and some narrowing of the acromioclavicular joint and lateral downsloping acromion. He advised that appellant underwent a left shoulder MRI scan on May 12, 2015 which demonstrated a moderate full-thickness tear of the rotator cuff involving the supraspinatus tendon in the anterior infraspinatus. Dr. Emerson diagnosed a full-thickness rotator cuff tear with acromioclavicular arthritic change and biceps

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *Id.* For a definition of the term “injury,” see 20 C.F.R. § 10.5(ee).

⁹ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹⁰ *Id.*

¹¹ *Supra* note 5.

tendinitis. He recommended that appellant consider surgery to ameliorate his rotator cuff tear. Dr. Emerson advised in his June 22, 2015 report that appellant's left shoulder symptoms were essentially unchanged. He diagnosed a full-thickness rotator cuff tear on the left side with AC joint arthritis and biceps tendinitis and recommended that appellant undergo surgery to repair his left rotator cuff.

The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested, and the medical rationale expressed in support of stated conclusions.¹² While Drs. Deren and Emerson noted complaints of left-sided shoulder pain which they generally attributed to the April 27, 2015 work incident and diagnosed a left rotator cuff tear, the reports from these physicians did not provide a probative, rationalized opinion regarding whether the April 27, 2015 work incident caused a personal injury.¹³ Neither physician sufficiently explained how medically appellant would have sustained left shoulder injury due to moving a bag from a table to a conveyer belt on April 27, 2015. Drs. Deren and Emerson did not adequately explain how the accident would have caused the claimed condition. Dr. Emerson's June 22, 2015 form report outlined work restrictions and indicated appellant was working eight hours per day on light duty, but he did not provide a probative, rationalized medical opinion regarding whether appellant had sustained a left shoulder injury causally related to the April 27, 2015 work incident. Appellant did not provide a report containing sufficient medical evidence demonstrating a causal connection between his April 27, 2015 work incident and his claimed left shoulder injury.

OWCP advised appellant of the evidence required to establish his claim. However, appellant failed to submit such evidence. Causal relationship must be established by rationalized medical opinion evidence. Appellant did not provide a medical opinion which describes or explains the medical process through which the April 27, 2015 work accident would have caused the claimed injury. Accordingly, he failed to meet his burden of proof to establish a left shoulder injury causally related to the accepted April 27, 2015 employment incident. OWCP properly denied appellant's claim for compensation.

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 failed to meet his burden of proof to establish a left shoulder injury causally related to the accepted April 27, 2015 employment incident.

¹² See *Anna C. Leanza*, 48 ECAB 115 (1996).

¹³ See *S.H.*, Docket No. 16-1227 (issued February 9, 2017).

ORDER

IT IS HEREBY ORDERED THAT the May 27, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 26, 2017
Washington, DC

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

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

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