

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

P.S., Appellant	)	
	)	
and	)	<b>Docket No. 18-1001</b>
	)	<b>Issued: October 26, 2018</b>
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION FACILITY, Bismarck, ND,	)	
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  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On April 16, 2018 appellant filed a timely appeal from a March 30, 2018 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) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant sustained bone spurs, a possible rotator cuff condition, or tendinitis causally related to the accepted factors of his federal employment.

**FACTUAL HISTORY**

On February 20, 2018 appellant, then a 58-year-old parcel post distribution machine operator, filed an occupational disease claim (Form CA-2) alleging that he sustained bone spurs,

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

a possible rotator cuff problem, tendinitis, and additional disorders due to repetitive trauma. He first became aware of his claimed conditions on November 5, 2015 and attributed them to his federal employment on July 1, 2017. Appellant missed no time from work and performed limited-duty employment beginning February 13, 2018.

Appellant, in a February 13, 2018 statement accompanying his claim, related that he experienced bilateral shoulder pain greater on the right side and described his work duties.

In a February 13, 2018 employing establishment temporary reassignment to light-duty form, Dr. Robert Bruce Canham, an orthopedic surgeon, found that appellant should perform light duty from February 13 to 28, 2018 lifting no more than five pounds.

The employing establishment, on February 22, 2018, controverted the claim as appellant had not submitted sufficient supporting medical evidence.

By development letter dated February 27, 2018, OWCP requested that appellant submit additional factual and medical evidence in support of his claim, including a detailed report from his attending physician addressing the causal relationship between any diagnosed condition and identified work factors.

Appellant submitted a March 5, 2018 statement describing the employment factors to which he attributed his condition, including lifting, pushing, and pulling mail.

Dr. Anthony M. Tello, an internist, indicated on November 5, 2015 that he had treated appellant on that date. He found that appellant should only work 40 hours per day “due to right shoulder strain and supraspinatus tendinitis of the shoulder.”

By decision dated March 30, 2018, OWCP denied appellant’s occupational disease claim. It found that the medical evidence of record was insufficient to demonstrate that he sustained a diagnosed condition causally related to the accepted work factors, as his physician had not provided a rationalized medical opinion establishing an employment-related injury or condition.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> 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 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 specific condition for which compensation is claimed are causally related to the employment injury.<sup>3</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>4</sup>

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<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *See Ellen L. Noble*, 55 ECAB 530 (2004).

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;<sup>5</sup> (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;<sup>6</sup> and (3) medical evidence establishing 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.<sup>7</sup>

The medical evidence 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 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>8</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that he sustained bone spurs, a possible rotator cuff condition, or tendinitis causally related to the accepted factors of his federal employment.

In a February 13, 2018 form report, Dr. Canham opined that appellant should perform light duty from February 13 to 28, 2018. As Dr. Canham did not provide findings on examination, a causation finding, or a medical diagnosis, his report is of limited probative value.<sup>9</sup>

On November 5, 2015 Dr. Tello diagnosed right shoulder strain and supraspinatus tendinitis. He found that appellant should not work over 40 hours per week. Dr. Tello, however, did not address the cause of the diagnosed conditions. Medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>10</sup>

On appeal appellant asserts that OWCP failed to consider the medical evidence from Dr. Canham and erred in failing to accept his claim. As discussed, Dr. Canham's report is insufficient to support his claim. OWCP advised appellant on February 27, 2018 of the type of evidence necessary to support his claim, including the submission of a reasoned report from his physician explaining how any diagnosed condition was caused or aggravated by employment

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<sup>5</sup> *Michael R. Shaffer*, 55 ECAB 386 (2004).

<sup>6</sup> *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

<sup>7</sup> *Beverly A. Spencer*, 55 ECAB 501 (2004).

<sup>8</sup> *See J.R.*, Docket No. 17-1781 (issued January 16, 2018); *I.J.*, 59 ECAB 408 (2008).

<sup>9</sup> *See C.S.*, Docket No. 14-0269 (issued May 12, 2014); *P.A.*, Docket No. 10-2189 (issued June 21, 2011).

<sup>10</sup> *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

factors. As he did not submit such evidence, he has not met his burden of proof to establish his claim.<sup>11</sup>

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 his burden of proof to establish that he sustained bone spurs, a possible rotator cuff condition, or tendinitis causally related to the accepted factors of his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 30, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 26, 2018  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

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

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<sup>11</sup> See *J.D.*, Docket No. 17-2016 (issued April 16, 2018).