

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

_____)	
T.M., Appellant)	
)	
and)	Docket No. 18-0713
)	Issued: September 5, 2018
U.S. POSTAL SERVICE, POST OFFICE,)	
Des Moines, IA, 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
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 15, 2018 appellant filed a timely appeal from a January 5, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has met his burden of proof to establish a right shoulder condition causally related to the accepted factors of his federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

² The record provided to the Board includes evidence received after OWCP issued its January 5, 2018 decision. The Board's jurisdiction is limited to evidence that was in the case record at the time of OWCP's final decision. Therefore, the Board is precluded from reviewing this additional evidence for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On November 22, 2017 appellant, then a 61-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained an occupational injury due to “repetitive motion” while at work. The claim form did not indicate whether appellant stopped work.

In a November 29, 2017 development letter, OWCP acknowledged receipt of appellant’s claim. It provided appellant a factual questionnaire to complete and return and requested medical evidence in support of his claim. OWCP afforded him 30 days to submit the requested medical evidence and factual information. A similar letter was sent to the employing establishment.

On December 11, 2017 OWCP received the employing establishment’s response to its November 29, 2017 development letter. In a December 5, 2017 e-mail, L.W., appellant’s postmaster, related that appellant’s daily tasks consisted of casing mail, pulling down mail, loading parcels, and delivering mail with his right arm. She noted that his work required a lot of repetitive motion. L.W. explained that he assigned a rural carrier assistant to help appellant on extremely heavy mail volume and package days. She reported that his physical job requirements required casing and bundling mail, loading and unloading his vehicle, lifting and carrying mail for a dismounted delivery, and driving in all weather conditions.

The employing establishment provided a rural carrier position description. It also provided a duty status report (Form CA-17) indicating that it could provide limited duty to meet most restrictions.

In a December 12, 2017 report, Dr. Mark J. Isaacson, an orthopedic surgeon and osteopath, noted appellant’s complaints of right shoulder pain. He indicated that appellant worked for the employing establishment and had repetitive motion of reaching out of his car hundreds of times a day. Dr. Isaacson reviewed appellant’s history and provided examination findings. He related that examination of appellant’s right shoulder showed significant tenderness over the acromioclavicular (AC) joint, but no erythema, ecchymosis, or skin breakdown. Range of motion was full, except for pain with forward flexion beyond 95 degrees. Hawkins impingement test was slightly positive. Dr. Isaacson diagnosed right shoulder pain with rotator cuff tendinitis as well as AC joint arthritis.

By decision dated January 5, 2018, OWCP denied appellant’s occupational disease claim. It accepted his employment duties as a rural carrier and a diagnosis of a right shoulder condition, but denied his claim because the medical evidence submitted was insufficient to establish that his right shoulder condition was causally related to his federal employment duties.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial

³ *Supra* note 1.

evidence⁴ including that he or she sustained an injury in the performance of duty, and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.⁵

In an occupational disease claim, appellant's burden requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁷ 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.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish causal relationship between his right shoulder condition and the accepted factors of his federal employment.

The only medical evidence appellant submitted was a December 12, 2017 report authored by Dr. Isaacson, who related that appellant experienced right shoulder pain and that his employment involved repetitive motion of reaching out of his car while delivering mail. Dr. Isaacson conducted an examination and diagnosed right shoulder pain with rotator cuff tendinitis as well as AC joint arthritis. He did not, however, provide any opinion regarding the cause of appellant's right shoulder condition. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁹ For this reason, this report is insufficient to establish appellant's claim.

⁴ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁵ *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁷ *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

⁸ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

⁹ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

Causal relationship is a medical question that must be established by probative medical opinion from a physician.¹⁰ The mere fact that work activities may produce symptoms revelatory of an underlying condition does not raise an inference of an employment relation. Such a relationship must be shown by rationalized medical evidence of a causal relation based upon a specific and accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition.¹¹ As appellant has not provided such rationalized medical evidence showing that his accepted employment duties caused or aggravated his right shoulder condition, he has not met his burden of proof to establish his claim.

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 a right shoulder injury causally related to the accepted factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the January 5, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 5, 2018
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

¹⁰ *W.W.*, Docket No. 09-1619 (issued June 2010); *David Apgar*, 57 ECAB 137 (2005).

¹¹ *Patricia J. Bolleter*, 40 ECAB 373 (1988).