

ISSUE

The issue is whether appellant has met her burden of proof to establish left shoulder and elbow conditions causally related to the accepted September 21, 2017 employment incident.

FACTUAL HISTORY

On October 17, 2017 appellant, then a 31-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on September 21, 2017 she sustained a left shoulder injury when she was bumped by a coworker while in the performance of duty. On the reverse side of the claim form the employing establishment indicated that appellant stopped work on the date of the alleged incident, returned to work on September 22, 2017, and stopped work again on September 24, 2017.

In a supplemental statement dated October 16, 2017, appellant indicated that on September 21, 2017, as she was placing her telephone in her back pocket, her coworker came up behind her, bumped into her, and as a result she hit her elbow and jerked her shoulder backwards. She stated that her coworker apologized, and they had a brief exchange of words. Appellant's coworker denied striking her on purpose and alleged that it was an accidental bumping.

In a report dated October 9, 2017, Dr. Jung Kim, Board-certified in internal and occupational medicine, indicated that appellant complained of left shoulder pain and left elbow cramping. After physical examination and review of appellant's history of present illness, he diagnosed left shoulder contusion, unspecified left shoulder joint sprain, and left elbow contusion. Dr. Kim noted that appellant's work status was restricted duty.

In a letter dated October 20, 2017, the employing establishment challenged appellant's claim after an investigation into the circumstances surrounding her alleged injury. It argued that there was inconsistency as to which arm she claimed was bumped by her coworker because she demonstrated the incident to management on September 21, 2017 and then changed her story when demonstrating the incident to police on October 16, 2017. In addition, the employing establishment argued that appellant visited one doctor on September 25, 2017 who indicated that she was able to return to work that same day, and then visited a second doctor on September 29, 2017 who noted that she was unable to return to work until October 20, 2017.

In a development letter dated October 25, 2017, OWCP informed appellant that the evidence of record was insufficient to establish her traumatic injury claim. It advised her of the factual and medical evidence required to establish her claim and afforded her 30 days to submit the necessary evidence.

In a separate development letter of even date, OWCP informed the employing establishment of appellant's claim. It requested that it respond to its inquiry as to the events and circumstances surrounding the September 21, 2017 incident so it could be determined if she was in the performance of duty when injured.

In a report dated October 13, 2017, received by OWCP on October 25, 2017, Dr. Kim again diagnosed left shoulder contusion, unspecified left shoulder joint sprain, and left elbow contusion, and indicated that appellant was to return to work with restricted duties on October 13, 2017.

In a letter dated November 1, 2017, the employing establishment requested that its controversion be upheld. It also indicated that appellant was released to work on September 24, 2017 with restrictions, and that it was able to provide work adhering to such restrictions, but she had yet to return to work.

On November 6, 2017, in response to OWCP's October 25, 2017 development letter, the employing establishment provided a number of witness statements recounting the events that took place on September 21, 2017.

In a report dated October 31, 2017, Dr. Joseph A. Dombroski, an osteopath, diagnosed left shoulder pain.

In a report dated November 10, 2017, Dr. Kim again diagnosed left shoulder contusion, unspecified left shoulder joint sprain, and left elbow contusion, and recommended that appellant return to work with restrictions that same day.

By decision dated November 27, 2017, OWCP denied appellant's claim, finding that the evidence of record failed to establish that her diagnosed medical conditions were causally related to the accepted September 21, 2017 employment incident.

On December 18, 2017 appellant, through counsel, requested a telephonic hearing before an OWCP hearing representative.

A telephonic hearing was held on June 15, 2018. Appellant provided testimony and the hearing representative held the case record open for 30 days for the submission of additional evidence. Following the hearing, she submitted additional medical evidence.

In a report dated September 29, 2017, received by OWCP on June 25, 2018, Dr. Dombroski reviewed x-ray examinations and determined that there was no evidence of fracture or dislocation of appellant's shoulder. He diagnosed left shoulder strain, left elbow pain, and noted that appellant's conditions were "employment related."

In an x-ray report dated September 29, 2017, received by OWCP on June 25, 2018, Dr. Cory A. Kutlick, an osteopath, indicated that he administered x-rays of appellant's left shoulder and left elbow. With regard to both scans, he related impressions of no evidence of acute fracture or dislocation.

In a report dated October 31, 2017, received by OWCP on June 25, 2018, Dr. Dombroski noted impressions of left shoulder pain. He did not opine as to the cause of appellant's condition.

In a magnetic resonance imaging (MRI) scan report dated December 28, 2017, received by OWCP on June 25, 2018, Dr. Albert J. Cook, a Board-certified diagnostic radiologist, noted impressions of tendinitis involving the supraspinatus tendon.

By decision dated August 30, 2018, an OWCP hearing representative affirmed the November 27, 2017 decision, finding that the evidence of record failed to establish how appellant's diagnosed medical conditions were causally related to the accepted September 21, 2017 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is 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

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁷ The second component is whether the employment incident caused a personal injury.⁸

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence supporting such causal relationship.⁹ Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.¹⁰ 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

³ *Id.*

⁴ *T.W.*, Docket No. 18-1436 (issued April 10, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *T.W.*, *id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *T.W.*, *id.*; *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *T.W.*, *id.*; *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *J.L.*, Docket No. 18-0698 (issued November 5, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

¹⁰ *L.D.*, Docket No. 17-1581 (issued January 23, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

employment factors identified by the employee.¹¹ Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹²

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that her left shoulder and elbow conditions were causally related to the accepted September 21, 2017 employment incident.

In his September 29 and October 31, 2017 reports, Dr. Dombroski noted impressions of left shoulder pain and diagnosed left shoulder strain. In his September 29, 2017 report, he opined that appellant's condition was "employment related." The Board notes that the assessment of pain is not considered a diagnosis as it merely refers to symptoms of the underlying condition.¹³ While Dr. Dombroski also diagnosed left shoulder strain and indicated that it was "employment related," he offered no rationalized opinion regarding the cause of this diagnosis.¹⁴ The Board has frequently explained that conclusory medical opinions, are entitled to little probative weight and are insufficient to support a causal relationship claim.¹⁵ To be of probative medical value, a medical opinion must explain how physiologically the movements involved in the employment incident caused or contributed to the diagnosed conditions.¹⁶

Appellant also submitted reports dated October 9 and 13, and November 10, 2017 from Dr. Kim who diagnosed left shoulder contusion, unspecified left shoulder joint sprain, and left elbow contusion. While he reiterated appellant's history of injury, Dr. Kim did not opine as to the cause of appellant's conditions. The Board has held that 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.¹⁷ These reports, therefore, are insufficient to establish appellant's claim.

Appellant submitted diagnostic reports dated September 29 and December 28, 2017. The Board has held that diagnostic studies lack probative value as they do not address whether the

¹¹ *L.D., id.*; see also *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹² *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹³ *M.V.*, Docket No. 18-0884 (issued December 28, 2018). The Board has consistently held that pain is a symptom, rather than a compensable medical diagnosis. See *P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

¹⁴ *W.M.*, Docket No. 19-0013 (issued April 11, 2019); *C.C.*, Docket No. 17-1841 (issued December 6, 2018); see *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ *M.E.*, Docket No. 18-0330 (issued September 14, 2018); *A.D.*, 58 ECAB 149 (2006).

¹⁶ See *K.L.*, Docket No. 18-1029 (issued January 9, 2019).

¹⁷ *W.M.*, *supra* note 14; *C.C.*, Docket No. 17-1841 (issued December 6, 2018); see *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, *supra* note 14.

employment incident caused any of the diagnosed conditions.¹⁸ Therefore, these diagnostic reports are insufficient to establish causal relationship as it does not provide an opinion on causal relationship.

As appellant has not submitted rationalized medical evidence establishing that her diagnosed medical condition was causally related to the accepted employment incident, the Board finds that she has not met her burden of proof to establish her 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 her burden of proof to establish left shoulder and elbow conditions causally related to the accepted September 21, 2017 employment incident.

ORDER

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

Issued: June 21, 2019
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

¹⁸ *T.S.*, Docket No. 18-150 (issued April 12, 2019); *see J.S.*, Docket No. 17-1039 (issued October 6, 2017).