

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

_____)	
C.A., Appellant)	
)	
and)	Docket No. 21-0601
)	Issued: November 15, 2021
U.S. POSTAL SERVICE, POST OFFICE,)	
Santa Clarita, CA, Employer)	
_____)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 8, 2021 appellant filed a timely appeal from a January 7, 2021 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.

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.

FACTUAL HISTORY

On April 3, 2020 appellant, then a 30-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained right shoulder pain causally related to factors of his federal employment, including carrying a satchel with mail flats and packages on his right shoulder

¹ 5 U.S.C. § 8101 *et seq.*

when walking his route while in the performance of duty. He noted that he first became aware of his condition and its relationship to his federal employment on March 16, 2020. Appellant stopped work on March 30, 2020.

In a narrative statement dated April 1, 2020, appellant explained that, two weeks prior, he had noticed he could no longer complete his 10-mile walking route with his satchel on his right shoulder and would wear it across his chest instead. He noticed that he could not put weight on his right shoulder due to pain and also experienced pain with arm movements such as reaching above his head and behind his back. Appellant stated that he believed that all the added weight from wearing his satchel on his right shoulder daily had caused a right shoulder injury.

An x-ray of appellant's right shoulder obtained on March 30, 2020 demonstrated no evidence of acute fracture. A note of the same date contained a diagnosis of right shoulder pain over the acromioclavicular (AC) joint. The signature on this note was illegible.

A duty status report (Form CA-17) dated April 1, 2020, contained a diagnosis of right shoulder pain and recommended a work restriction that appellant was to use a two-wheeled dolly to pull and carry his bags and mail. The signature on this report was illegible.

In a development letter dated April 6, 2020, OWCP informed appellant that the evidence submitted was insufficient to establish his claim. It advised him of the type of medical evidence needed, including a report containing a medical diagnosis and a comprehensive narrative report from a qualified physician explaining how factors of his federal employment caused, contributed to, or aggravated a diagnosed condition. OWCP afforded appellant 30 days to respond and submit additional evidence. No response was received within the time allotted.

By decision dated May 12, 2020, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted factors of his federal employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On September 21, 2020 appellant requested reconsideration and submitted a July 31, 2020 report from Dr. Donnelly Wilkes, a Board-certified family practitioner. Dr. Wilkes diagnosed a superior glenoid labrum lesion and pain of the right shoulder. He opined that it was difficult to determine what the cause of appellant's superior glenoid labrum lesion, but that it was reasonable to consider that it was multifactorial and that appellant's job as a postal worker could be related.

In a report dated August 28, 2020, Dr. Michael S. Bahk, a Board-certified orthopedic surgeon, examined appellant for complaints of right shoulder pain. Appellant told Dr. Bahk that the pain began around March 15, 2020 and that it began at work as a mail carrier. On physical examination of the right shoulder, Dr. Bahk observed tenderness to palpation along the anterior and posterior shoulder joint lines, mild pain with passive stretching, limited passive abduction, reduced abduction strength, and positive O'Brien's and Mayo Shear tests. He reviewed a right shoulder and scapular magnetic resonance imaging (MRI) scan studies obtained on July 24 and August 1, 2020. Dr. Bahk diagnosed a right shoulder industrial injury that occurred around March 15, 2020, a possible right shoulder anterior superior labral tear *versus* superior labrum anterior and posterior (SLAP) tear, and a possible right shoulder posterior labral tear. He reviewed

the duties of appellant's federal employment, noting casing mail for one to two hours, raising appellant's arm in a repetitive motion above his head, lifting packages up to 70 pounds and trays of mail up to 15 pounds, pushing and pulling heavy equipment, carrying his satchel on his right shoulder containing up to 30 pounds of mail while walking his route delivering mail door-to-door, and using his right hand to sort mail and to grab mail and parcels out of his satchel by reaching behind his back. Dr. Bahk noted that appellant performed these repetitive motions hundreds of times per day and had over 400 deliveries daily. He opined that, within a reasonable degree of medical certainty, appellant's right shoulder injury was industrial in nature. Dr. Bahk recommended a right shoulder arthroscopic labral repair, SLAP repair, and possible open biceps tenodesis. He opined that, within reasonable medical certainty, he believed that these procedures were medically indicated and industrial in causation given the physical activity required for work and onset of pain.

An MRI scan of appellant's right shoulder obtained on July 24, 2020 demonstrated an anterior labral tear with possible notching and partial SLAP-type tear involving the superior labrum, a laterally downsloping acromion with mild AC joint hypertrophy/arthropathy seen with a small amount of fluid at the joint, which may have contributed to clinical impingement syndrome, and minimal subacromial/subdeltoid bursitis.

By decision dated January 7, 2021, OWCP modified its May 12, 2020 decision to accept that appellant had submitted a medical diagnosis in connection with the accepted factors of his federal employment. However, it denied his claim, finding that he had not submitted sufficient medical evidence to establish a causal relationship between his diagnosed superior glenoid labrum lesion of the right shoulder and factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 of FECA, 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.³ 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.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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

² *Id.*

³ *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁴

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁵ The opinion of the physician must be based on a complete factual and medical background, 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 incident.⁶

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right shoulder condition causally related to the accepted factors of his federal employment.

In a report dated August 28, 2020, Dr. Bahk diagnosed a right shoulder industrial injury that occurred around March 15, 2020, a possible right shoulder anterior superior labral tear *versus* SLAP tear, and a possible right shoulder posterior labral tear. He opined that, within a reasonable degree of medical certainty, appellant's right shoulder injury was industrial in nature. The Board notes that "injury" is not a specific diagnosis. Similarly, a diagnosis that is "possible" is not a firm diagnosis and is speculative in nature. Medical reports lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship are of no probative value.⁷ Therefore, this report is insufficient to meet appellant's burden of proof.⁸

In a July 31, 2020 report, Dr. Wilkes diagnosed a superior glenoid labrum lesion and pain of the right shoulder. He opined that it was difficult to determine what the cause of appellant's superior glenoid labrum lesion, but that it was reasonable to consider that it was multifactorial and that appellant's job as a postal worker could be related. While Dr. Wilkes provided a firm medical diagnosis of a superior glenoid labrum lesion, his opinion as to the causation of this diagnosis was speculative in nature. The Board has long held that medical opinions that are speculative or equivocal in character have little probative value.⁹ As such, this report is insufficient to meet appellant's burden of proof.

Appellant submitted reports dated March 30 and April 1, 2020 containing illegible signatures. The Board has held that reports that are unsigned or bear an illegible signature lack

⁴ *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁵ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

⁷ *See A.C.*, Docket No. 20-1510 (issued April 23, 2021); *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

⁸ *See J.P.*, Docket No. 18-0349 (issued December 30, 2019); *D.D.*, 57 ECAB 734 (2006).

⁹ *J.P., id.*; *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.¹⁰

Appellant also submitted diagnostic reports, including an x-ray report dated March 30, 2020 and an MRI scan report dated July 27, 2020. However, diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether an employment incident caused the diagnosed condition.¹¹

As the record does not contain rationalized medical opinion evidence sufficient to establish causal relationship, the Board finds that appellant has not met his burden of proof.

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 condition causally related to the accepted factors of his federal employment.

¹⁰ *C.M.*, Docket No. 21-0004 (issued May 24, 2021); *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *R.C.*, Docket No. 19-0376 (issued July 15, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹¹ *K.R.*, Docket No. 20-1103 (issued January 5, 2021); *F.S.*, Docket No. 19-0205 (issued June 19, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

ORDER

IT IS HEREBY ORDERED THAT the January 7, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 15, 2021
Washington, DC

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

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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