

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOE ZAVALA and GENERAL SERVICES ADMINISTRATION,  
PUBLIC BUILDING SERVICE, Calexico, CA

*Docket No. 02-958; Submitted on the Record;  
Issued August 23, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,  
A. PETER KANJORSKI

The issue is whether appellant established that he sustained injuries to his right side while in the performance of duty.

On October 11, 2001 appellant, then a 49-year-old custodian, filed a notice of traumatic injury claiming that on September 4, 2001, while buffing the office floor, he felt numbness and stiffness on the right side of his body, specifically his right hand, leg and back. He submitted treatment notes and work restrictions diagnosing him with right carpal tunnel syndrome, right chest wall-abdominal wall strain, right leg radiculopathy and "hypertensive crisis."<sup>1</sup>

The Office informed appellant that additional information was necessary to make a determination regarding his claim and afforded him 30 days to submit additional evidence. By decision dated December 6, 2001, the Office denied appellant's claim as the evidence was not sufficient to establish that he sustained an injury in the performance of duty.

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury while in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition

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<sup>1</sup> These signatures are illegible and the Board cannot determine whether they are signed by physicians; the Office of Workers' Compensation Programs noted in their December 6, 2001 decision that a physician's assistant created some of the work restriction forms.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

for which compensation is claimed are causally related to the employment injury.<sup>3</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

To determine whether an 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.<sup>5</sup> 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.<sup>6</sup> An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or a specific condition for which compensation is claimed are causally related to the injury.<sup>7</sup>

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. 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 employment factors identified by the claimant.<sup>8</sup>

In this case, appellant has not provided rationalized medical opinion evidence supporting a causal relationship between his carpal tunnel syndrome, right chest and abdominal wall strain, right leg radiculopathy and his work conditions.<sup>9</sup> He identified the employment factors, which he believed caused his condition and submitted diagnoses identifying a medical condition. Appellant did not, however, provide a physician’s rationalized medical opinion establishing a causal connection between his condition and his employment. As noted above, part of his burden of proof includes the submission of rationalized medical evidence establishing that the claimed condition is causally related to employment factors. As appellant has not submitted

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<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>6</sup> *Id.* For a definition of the term “injury,” see 20 C.F.R. § 10.5(a)(14).

<sup>7</sup> As used in the Act, the term “disability” means incapacity because of an injury in employment to earn wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity. *Frazier V. Nichol*, 37 ECAB 528 (1986).

<sup>8</sup> *Delores C. Ellyett*, 41 ECAB 992, 994 (1990).

<sup>9</sup> The Board notes that appellant submitted additional medical evidence to the Office subsequent to its December 6, 2001 decision. The Board cannot consider this evidence submitted after the Office’s decision, as its review is limited to the evidence, which was before the Office at the time of its final decision; *Dennis E. Maddy*, 47 ECAB 259 (1995).

such evidence attributing the injuries to his right hand, back and leg to his federal employment, the Office properly denied his claim.

The December 6, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
August 23, 2002

Michael J. Walsh  
Chairman

Alec J. Koromilas  
Member

A. Peter Kanjorski  
Alternate Member