

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONNIE SPIVEY and U.S. POSTAL SERVICE,
POST OFFICE, Plymouth, NC

*Docket No. 03-1453; Submitted on the Record;
Issued September 30, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has established that he developed a shoulder condition in the performance of duty.

On December 20, 2002 appellant, then a 59-year-old city letter carrier, filed an occupational disease claim alleging that he developed bone spurs in his left shoulder due to 25, years of carrying a mailbag. In a letter dated January 10, 2003, the Office of Workers' Compensation Programs informed appellant of the necessity of submitting rationalized medical evidence to substantiate that he developed a medical condition due to factors of his federal employment. By decision dated March 19, 2003, the Office denied appellant's claim on the grounds that the medical evidence submitted was insufficient to establish fact of injury.

The Board finds that appellant has not established that he developed a shoulder condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim, including the fact that an injury was sustained 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.²

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; (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for

¹ 5 U.S.C. §§ 8101-8193.

² *Kathryn A. Tuel-Gillem*, 52 ECAB 451 (2001); *Charles E. Evans*, 48 ECAB 692 (1997).

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. The medical evidence required to establish a causal relationship, generally, 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.³ The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.⁴

In support of his claim, appellant submitted a narrative statement explaining the duties of his position alleged to have caused or contributed to his claimed condition. In addition, appellant submitted a November 26, 2002 note from Dr. Lawrence N. Larabee, Jr., his treating Board-certified orthopedic surgeon, in which he stated that he had seen appellant for left shoulder pain, which was now also in the right shoulder and was "most likely work related." The physician noted that a magnetic resonance imaging scan and surgery had been scheduled and that it was estimated that appellant would be off work for six months. A medical absence report contained in the record indicates that appellant was seen on November 18 and 19, 2002 and was excused from work. Finally, the record contains a January 3, 2003 duty status report from Dr. Larabee, on which he stated that appellant was scheduled for surgery and would be totally disabled from November 18, 2002 to approximately May 18, 2003.

None of the medical evidence submitted by appellant contains any diagnosis of his condition, other than documenting his complaints of pain and further does not contain any discussion of the cause of appellant's conditions. An individual seeking compensation benefits has the burden of establishing the essential elements of his or her claim. Thus the employee has the burden of establishing by the weight of reliable, probative and substantial medical evidence, a firm diagnosis of his or her condition and that the condition alleged is causally related to factors of the federal employment.⁵ While Dr. Larabee stated that appellant's condition was "most likely work related," this opinion is speculative and, therefore, of little probative value.⁶

³ *Vicky L. Hannis*, 48 ECAB 538 (1997).

⁴ *Claudia L. Yantis*, 48 ECAB 495 (1997).

⁵ *Thomas S. Miceli*, 40 ECAB 1322 (1989).

⁶ While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, neither can such opinion be speculative or equivocal. Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee's burden of proof. *Thomas A. Faber*, 50 ECAB 566 (1999); *Judith J. Montage*, 48 ECAB 292 (1997).

By letter dated January 10, 2003, the Office informed appellant of the necessity of submitting rationalized medical evidence to substantiate that he developed a medical condition due to factors of his federal employment. As he failed to submit any medical evidence which contains a firm diagnosis of his condition and discusses how specific factors of his federal employment caused or contributed to his condition or provides sufficient rationale for the conclusions therein, the Office properly denied his claim.⁷

The decision of the Office of Workers' Compensation Programs dated March 13, 2003 is affirmed.

Dated, Washington, DC
September 30, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

⁷ The Board notes that subsequent to the Office's March 19, 2003 decision, appellant submitted additional medical evidence to the Office. The Board cannot consider this evidence, however, as its review of the case is limited to the evidence of record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may resubmit this evidence to the Office together with a written request for reconsideration.