

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

PATRICIA CORRALES, Appellant)

and)

U.S. POSTAL SERVICE, WASHINGTON)
STATION, Los Angeles, CA, Employer)

Docket No. 06-280

Issued: April 14, 2006

Appearances:

Patricia Corrales, pro se

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On November 15, 2005 appellant filed a timely appeal of an October 26, 2005 merit decision of the Office of Workers' Compensation Programs, finding that she did not sustain an injury while in the performance of duty. Pursuant to 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 established that she sustained an injury while in the performance of duty.

FACTUAL HISTORY

On June 28, 2005 appellant, then a 35-year-old part-time flexible carrier, filed an occupational disease claim alleging that she sustained an umbilical hernia causally related to factors of her federal employment. She stated that, on May 27, 2005, she felt a pull in her stomach as she attempted to lift two packages weighing more than 70 pounds. Appellant indicated that she had experienced stomach pain since the date of injury. She received medical treatment from her attending physician who diagnosed the hernia. In a letter dated June 30,

2005, the employing establishment controverted appellant's claim on the grounds that she failed to submit factual and medical evidence in support of her claim.

By letter dated July 27, 2005, the Office advised appellant that the information provided was insufficient to establish her claim. The Office requested that she submit additional evidence as to whether the claimed injury was caused by the May 27, 2005 lifting incident or to similar lifting incidents over several work shifts or periods of time. The Office also requested information regarding her physical activities outside her federal employment and the development of the claimed condition. The Office advised appellant to submit a comprehensive medical report from her attending physician which included, among other things, medical reasons for the causal relationship between the claimed condition and factors of her federal employment. She was afforded 30 days to provide the requested evidence.

On August 23, 2005 appellant's attending physician requested additional time to submit a comprehensive medical report. The Office granted an extension until September 9, 2005. No additional evidence was received by the Office within the time allotted.

By decision dated October 26, 2005, the Office found the evidence of record insufficient to establish that appellant sustained an injury while in the performance of duty. The Office found that she did not clarify the "mechanism" of the injury and that her attending physician failed to submit the requested medical information in the time allotted. Accordingly, the Office denied her claim.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of 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 for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

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 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 which compensation is claimed or, stated differently, medical evidence establishing that the

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

diagnosed condition is causally related to the employment factors identified by the claimant. 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.⁴

ANALYSIS

In this case, appellant filed an occupational disease claim alleging that on May 27, 2005 she sustained an umbilical hernia as a result of attempting to lift two packages weighing more than 70 pounds at work. The Office asked her to clarify whether she was claiming a traumatic injury based on the event of May 27, 2005 or an occupational disease due to similar incidents that occurred over several work shifts.⁵ Appellant did not provide the requested clarification within the allotted time.

The Board finds that as the only evidence of record is appellant's description that she felt a pull in her stomach on May 27, 2005 when lifting packages while in the performance of duty as a part-time flexible carrier. She described a traumatic incident, occurring during one workday or work shift.⁶ As such, she has not met her burden of proof to establish an occupational disease claim. However, appellant did not submit any medical evidence addressing the issue of causal relationship.

As appellant did not submit the evidence necessary to substantiate her occupational disease claim that she sustained an umbilical hernia causally related to factors of her employment as a part-time flexible carrier, the Board finds that she has failed to meet her burden of proof.⁷

CONCLUSION

The Board finds that appellant has failed to establish that she sustained an injury while in the performance of duty.

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁵ 20 C.F.R. § 10.5(ee) and (q) (2005) (Traumatic injury means a condition of the body caused by a specific event or incident or a series of events or incidents, within a single workday or shift.) (Occupational disease or illness means a condition produced by the work environment over a period longer than a single workday or shift.).

⁶ *See* 20 C.F.R. § 10.5(ee).

⁷ The Board notes that, as appellant has described a lifting incident occurring during one workday or shift on May 27, 2005, this appears to be a claim for a traumatic injury even though appellant utilized the form for an occupational disease. Upon return of the case record, the Office should develop this aspect of appellant's claim.

ORDER

IT IS HEREBY ORDERED THAT the October 26, 2005 decision of the Office of Workers Compensation Programs is affirmed.⁸

Issued: April 14, 2006
Washington, DC

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

⁸ The Board notes that appellant submitted additional evidence subsequent to the Office's October 26, 2005 decision. She also submitted duplicate copies of this evidence on appeal before the Board. The Board may not consider evidence for the first time on appeal, which was not before the Office at the time it issued the final decision in the case. 20 C.F.R. § 501.2(c). Appellant can submit this evidence to the Office and request reconsideration. 5 U.S.C. § 8128; 20 C.F.R. § 10.606.