



factual and medical evidence and informed appellant of the difference between a claim for a traumatic injury and a claim for an occupational disease.<sup>2</sup> On August 22, 2006 appellant filed a traumatic injury claim alleging that she sustained a strain to her left arm when she “pulled something” at work on July 1, 2006. She later stated that she injured her arm on July 1, 2006 when she lifted mail buckets and her symptoms worsened.

In notes dated July 7, 28 and September 15, 2006, Dr. Ali R. Berenji, an attending Board-certified orthopedic surgeon, provided work restrictions. On July 7, 2006 he stated that appellant “has suffered work injury to left elbow.” On July 18, 2006 he indicated that she “seems to have work injury to left elbow” and provided a diagnosis of diffuse strain of the pronator teres. In the September 15, 2006 note, Dr. Berenji stated that appellant had lateral and medial epicondylitis of her left elbow. The findings of July 17, 2006 magnetic resonance imaging (MRI) scan testing of appellant’s left elbow showed mild diffuse intramuscular edema of the pronator teres consistent with a muscle strain (associated with common flexor tendinitis). No medial or lateral collateral ligament tears were found.

In a September 26, 2006 decision, the Office denied appellant’s claim that she sustained an employment-related injury on July 1, 2006. The Office accepted that appellant established an employment factor in the form of lifting mail buckets on July 1, 2006. However, she did not submit sufficient medical evidence to establish that she sustained injury due to this incident.

In an October 12, 2006 report, Dr. Berenji stated that appellant reported that she felt an ache, pulling sensation and tightness over her left elbow and arm regions on July 1, 2006 when carrying a bucket containing postal materials. The pain at that time was mostly over the lateral side of the elbow but extended upward as well as all the way down to her wrist. He described appellant’s work duties and noted that the mail buckets she carried tended to weigh 30 to 40 pounds. Dr. Berenji stated that examination of appellant’s left elbow showed swelling over the pronator teres and flexor group of the medial aspect and serious pain on the radial neck and articular surface of the lateral aspect. She exhibited limited range of motion of her left elbow and diminished left grip strength. Dr. Berenji described appellant’s treatment options, including possible surgery and provided work restrictions. He stated:

“After reviewing the MRI [scan] report and comparing [appellant’s] clinical findings, there is no doubt that [she] has a clinical picture in favor of lateral epicondylitis of the left elbow. That usually indicates a partial tear of the extensor carpi radialis brevis. There is no doubt that [appellant] has irritation of the superficial radial nerve on the supinator tunnel called the arcade of Frohse. There is a strong possibility that [appellant] has injury to the lateral joint component including the radial head or the capitular’s articular surface.”<sup>3</sup>

---

<sup>2</sup> A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift. 20 C.F.R. §§ 10.5(ee), (q); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

<sup>3</sup> The record also contains November 9, 2006 and January 18, 2007 form reports in which Dr. Berenji diagnosed lateral epicondylitis of the left elbow.

Appellant requested a hearing before an Office hearing representative. At the hearing, held on February 8, 2007 she testified that her injury occurred solely on July 1, 2006 due to lifting mail buckets and carrying them to her case. Appellant provided further description of the history of her medical condition.

In an April 20, 2007 decision, an Office hearing representative affirmed the September 26, 2006 decision.<sup>4</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>5</sup> 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.<sup>6</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>7</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.<sup>8</sup> Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>9</sup> The term "injury" as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.<sup>10</sup>

### **ANALYSIS**

Appellant alleged that she sustained a left arm injury on July 1, 2006 due to lifting buckets filled with mail and carrying them to her case. The Board notes that she established an

---

<sup>4</sup> Appellant submitted additional evidence after the Office's decision, but the Board cannot consider such evidence for the first time on appeal. See 20 C.F.R. § 501.2(c).

<sup>5</sup> 5 U.S.C. §§ 8101-8193.

<sup>6</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>7</sup> *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

<sup>8</sup> *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

<sup>9</sup> *John J. Carlone*, 41 ECAB 354, 356-57 (1989); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

<sup>10</sup> *Elaine Pendleton*, *supra* note 6; 20 C.F.R. § 10.5(a)(14).

employment incident in the form of lifting and carrying mail buckets on July 1, 2006. However, appellant did not submit sufficient medical evidence to establish that she sustained injury due to this employment factor.

On July 7, 2006 Dr. Berenji, an attending Board-certified orthopedic surgeon, stated that appellant “has suffered work injury to left elbow.” In a July 28, 2006 note, he indicated that she “seems to have work injury to left elbow” and diagnosed diffuse strain of the pronator teres. In a September 15, 2006 note, Dr. Berenji stated that appellant had lateral and medial epicondylitis of her left elbow. These reports, however, are of limited probative value on the relevant issue of the present case in that they do not contain an opinion on causal relationship.<sup>11</sup> The brief treatment records do not provide a full history or medical background of appellant’s left elbow. Dr. Berenji did not provide a clear opinion that she sustained an employment injury on July 1, 2006. He appears to merely report appellant’s belief regarding the cause of her condition rather than provide his own opinion on causal relationship. Dr. Berenji did not record a history that an incident occurred on July 1, 2006 or make any mention of the employment factor implicated by appellant, *i.e.*, lifting and carrying mail buckets on July 1, 2006.

On October 12, 2006 Dr. Berenji stated that appellant reported that she felt an ache, pulling sensation and tightness over her left elbow and arm regions on July 1, 2006 when she was carrying a bucket containing postal materials. He stated that appellant indicated that the pain at that time was mostly over the lateral side of the elbow, but extended upward as well as all the way down to her wrist. Dr. Berenji noted that she had a clinical picture in favor of left lateral epicondylitis, that she had irritation of the superficial radial nerve on the supinator tunnel and that there was a strong possibility that appellant had injury to the lateral joint component. Although Dr. Berenji did provide a brief description of the employment factor implicated by appellant, he did not adequately address how the lifting or carrying of a bucket would cause or contribute to the diagnosed condition. Appellant did not submit any reports which indicated that her claimed condition was related to the July 1, 2006 employment factor and the Office properly denied her claim.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained a left arm injury in the performance of duty on July 1, 2006.

---

<sup>11</sup> See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship).

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' April 20, 2007 and September 26, 2006 decisions are affirmed.

Issued: October 12, 2007  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board