

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN R. KATONA and DEPARTMENT OF THE NAVY,
PUGET SOUND NAVAL SHIPYARD, Bremerton, WA

*Docket No. 98-149; Submitted on the Record;
Issued August 6, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained a bilateral carpal tunnel condition in the performance of duty.

On July 15, 1996 appellant, a 38-year-old crane operator, filed a Form CA-2 claim for benefits based on occupational disease, asserting that he had been diagnosed with carpal tunnel syndrome by a neurologist due to his "occupation," and that he became aware that this condition was caused or aggravated by his employment as of September 1, 1995.

In support of his claim, appellant submitted documentation which outlined his job duties and responsibilities. A payroll sheet indicated appellant had worked as a crane operator at the employing establishment through November 12, 1995; a notice of personnel action dated January 31, 1995 indicated appellant had been employed as a crane operator since September 21, 1979; an SF-171 Form dated May 25, 1994 also indicated that appellant had worked as a crane operator since September 21, 1979, and provided the following job description: "As an equipment operator, I have experience in operating mobile hydraulic cranes, backhoes, graders, bulldozers, rollers and compressors."

In addition, appellant submitted a position description of the crane operator position dated December 8, 1986, which stated, under the heading, "job summary, under the supervision of a bridge crane operator foreman, operates bridge cranes to lift, move and position various heavy machinery, sub-assemblies, equipment and materials within confined shops, warehouses and outside storage areas."

Under the heading, "typical work performed," the description states:

"Operates bridge cranes to lift, move and position various materials and equipment such as molten metal, lathes, boring mills or other large machine tools in production areas; castings, forgings and shafts for machining operations, sub-

assemblies for equipment assembly operations, pumps, electric motors and various parts of disassembled machinery in confined shop areas where maneuverability is restricted and accuracy is critical....”

Under the heading, “physical demands”, the description states:

“Incumbent exerts considerable effort in pulling and depressing the various levers, clutches and brakes in making frequent control changes. Requires continuous reaching, bending, and the moving of hands, arms, legs and feet. Must bend and twist his body to observe the load and the clearance and other objects. Works in a standing position and must keep his balance during movement of the crane. Physically lifts objects of various weights and sizes....”

Appellant also submitted medical evidence in support of his claim. A June 7, 1996 clinic treatment note stated that appellant had been diagnosed as having bilateral carpal tunnel syndrome based on nerve conduction studies. The note further stated that he began to experience bilateral numbness in 1979 while working as a crane operator, but that the condition began to worsen upon his most recent transfer at the employing establishment in February 1996. The note indicated appellant experienced pain and numbness, especially at night, and the cranes he operated in his current job had “dead man” control, and required gripping and pressure. A June 12, 1996 clinic treatment note stated that appellant was diagnosed as having bilateral carpal tunnel syndrome, which was attributed to gripping, torquing and repetitive motion.

Appellant submitted a March 20, 1996 report from Dr. Brian P. Wicks, a Board-certified orthopedic surgeon, who related appellant’s history of carpal tunnel symptoms. Dr. Wicks related that appellant began to develop these symptoms six years prior, and had experienced intermittent symptoms ever since that time. He noted that appellant had been referred to a neurologist, who performed nerve conduction studies and an electromyelogram on appellant demonstrating that he had bilateral carpal tunnel syndrome of moderate to severe degree, which were believed to be worse on the right. Dr. Wicks stated that appellant believed certain employment factors aggravated his condition, including repetitive hand work doing crane operations and any heavy lifting.

In a June 11, 1996 report, Dr. Wicks stated that appellant first began to experience bilateral carpal tunnel symptoms in 1990 while working a crane, which began to intensify in January 1995 when he began working with a different style of crane control, which involved having to push down on a safety button before operating the crane. He related that appellant believed the pressure in the palm of his hand was what increased his symptoms.

By letter dated August 16, 1996, the Office advised appellant that it required additional factual and medical information in support of his claim. The Office requested that he submit a statement describing all employment activities or factors which he believed contributed to the claimed condition and to the development of the condition. The Office also requested that appellant submit a comprehensive medical report and opinion from a physician which described the relationship between employment factors and the claimed condition. The Office informed the employee that he had 30 days to submit the requested information.

Appellant submitted a packet of documents which the Office received on August 19, 1996. Included in this information were two certificates of medical examination, dated July 13, 1981 and May 20, 1987, which further described the functional requirements and environmental factors entailed by the crane operator position.

By decision dated November 8, 1996, the Office denied appellant's claim, finding that he failed to submit sufficient evidence to establish fact of injury. The Office stated that it had requested a statement from appellant describing the specific job activities he believed contributed to the diagnosed bilateral carpal tunnel syndrome, but that appellant had failed to submit this evidence.

In a letter dated August 20, 1996, appellant requested the assistance of his congressional representative in obtaining reconsideration of the Office's previous decision. Appellant asserted that he had filed a request for reconsideration on July 7, 1997. Appellant's representative submitted a letter to the Office, dated August 20, 1996, inquiring as to the status of appellant's claim, and attached a copy of appellant's August 20, 1996 letter. By letter dated August 27, 1997, the Office advised appellant's representative that, although it had not located a request for reconsideration from appellant after a review of his case file, it would treat appellant's August 20, 1996 letter as a request for reconsideration.

In support of his request, appellant submitted clinic treatment notes dated November 14 and January 22, 1996.

By decision dated September 8, 1997, the Office denied appellant's application for review on the grounds that it neither raised substantive legal questions nor included new and relevant evidence such that it was sufficient to require the Office to review its prior decision.

The Board finds that the case is not in posture for decision.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that 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 for which compensation is claimed are causally related to the employment injury.² 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.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

¹ 5 U.S.C. §§ 8101-8193.

² *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is usually rationalized medical 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

The Board finds that the Office erred, in its November 8, 1996 decision, in finding that appellant did not submit sufficient evidence to establish fact of injury based on his failure to submit a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the claimed condition. The 1995 payroll sheet, January 31, 1995 notice of personnel action, the May 25, 1994 SF-171 Form, the July 13, 1981 and May 20, 1987 certificates of medical examination describing the functional requirements and environmental factors of the crane operator position, the 1986 position description submitted by appellant, plus the history of injury he provided in the 1996 clinic treatment notes and to Dr. Wicks, taken together, provided a sufficiently detailed description of appellant's job duties and functional requirements as a crane operator to satisfy appellant's burden of proof.

The Board further finds that the medical evidence submitted by appellant; *e.g.*, the March 20 and June 11, 1996 reports from Dr. Wicks, plus the June 7 and June 12, 1996 clinic treatment notes, which contain a history of the development of the condition and a medical opinion that the condition found was consistent with the history of development, are, given the absence of any opposing medical evidence, sufficient to require further development of the record.⁵ Dr. Wicks related in his March 20, 1996 report that appellant believed certain factors aggravated his condition, including repetitive hand work doing crane operations and any heavy lifting. The June 7, 1996 treatment note indicated that the cranes appellant operated in his current job had "dead man" control, which Dr. Wicks described in his June 11, 1996 report as a different style of crane control which entailed pushing down on a safety button before operating the crane and required gripping and pressure. He stated that appellant first began to experience bilateral carpal tunnel symptoms in 1990 while working a crane, which became aggravated in January 1995 when he began working with this new type of crane. Dr. Wicks further related in his June 11, 1996 report that appellant believed the pressure in the palm of his hand was what increased his symptoms. Thus, contrary to the Office's finding, Dr. Wicks clearly indicated that appellant's pain symptoms corresponded with the history of injury appellant provided him.

⁴ *Id.*

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

Finally, the June 12, 1996 clinic treatment note attributed appellant's bilateral carpal tunnel syndrome to the gripping, torquing and repetitive motion involved in his job.

Although the medical evidence submitted by appellant is not sufficient to satisfy the criteria for establishing bilateral carpal tunnel syndrome, it is sufficient to require further development of the case record by the Office.

On remand, therefore, the Office should prepare a statement of accepted facts and send appellant to an appropriate second opinion specialist for an examination and opinion as to whether appellant has sustained a bilateral hand condition causally related to his job duties as a crane operator.

Accordingly, the Office of Workers' Compensation Programs decision of November 8, 1996 is set aside and the case is remanded for further action consistent with this decision.

Dated, Washington, D.C.
August 6, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member