

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CAROLYN L. GREMMINGER and U.S. POSTAL SERVICE,
POST OFFICE, St. Louis, MO

*Docket No. 99-1578; Submitted on the Record;
Issued August 16, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established that her right thumb condition was sustained in the performance of duty, as alleged.

On May 7, 1998 appellant, then a 46-year-old rural letter carrier, filed a notice of traumatic injury and claim for pay/compensation (Form CA-1) alleging that on March 17, 1998 she slipped while walking in the snow and caught herself on her right hand while in the performance of her federal duties. She asserted that she might have a possible torn tendon on the right thumb. The Office of Workers' Compensation Programs assigned the claim file number 110164992. By decision dated July 14, 1998, the Office denied appellant's claim for compensation on the grounds that fact of injury was not established. It was noted that appellant's supervisor submitted a statement noting that appellant reported having a flat tire on March 11, 1998.

On June 11, 1998 appellant filed another notice of traumatic injury and claim for pay/compensation (Form CA-1) alleging that on June 4, 1998 she slipped on wet steps while delivering a package and, as she grabbed the banister, she twisted her right thumb and a lump developed between her knuckle of right thumb and her wrist. The Office assigned the claim file number 110165724. By decision dated July 31, 1998, the Office denied appellant's claim for compensation on the grounds that the medical evidence was not sufficient to establish a causal relationship between the injury and the medical condition.

In a letter dated September 8, 1998, appellant requested reconsideration. Additional evidence was submitted.

By decision dated January 14, 1999, the Office denied modification, after conducting a merit review, of both prior decisions. The Office found the record was devoid of factual evidence which established the March 17, 1998 incident was sustained as alleged or that the later June 4, 1998 incident resulted in an injury as the medical evidence.

The Board finds that appellant has not met her burden of proof in establishing that she sustained her right thumb 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 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

Although the record reflects that appellant had a right sided first dorsal compartment tenosynovitis for which she underwent surgical release on June 19, 1998 the medical evidence in this case is insufficient to establish that appellant sustained an injury in the performance of her federal duties.³

The record reflects that appellant first indicated she hurt her right thumb on March 17, 1998 when she slipped in the snow and landed on her right hand while waiting for someone to change her flat tires. The May 5 and 15, 1998 disability certificates from Dr. Robert S. Kramer, a Board-certified orthopedic surgeon and appellant's treating physician, provide no history of injury or a medical diagnosis. Furthermore, the disability certificates contain the notation "not a workers' compensation injury." Appellant was advised of the necessity of providing rationalized medical evidence addressing how specific work factors caused or aggravated her claimed right thumb condition, but no evidence was received. The record was further devoid of any factual information describing what work factors appellant believed caused or aggravated her condition. Moreover, employing establishment records reflect that appellant's flat tire occurred on March 11, 1998 as opposed to the March 17, 1998 date alleged and witness statements dispute any knowledge of appellant complaining of an injury. Accordingly, the Office properly denied appellant's claim for a March 17, 1998 injury as the evidence is not sufficient to establish that the March 17, 1998 incident was sustained at the time, place or in the manner alleged.

Appellant also alleged that on June 4, 1998, she slipped on wet steps and twisted her right thumb as she grabbed the banister. She was seen on June 9, 1998 at the Washington School of Medicine, Department of Orthopedic Surgery and June 10, 1998 by Dr. Kramer, however, no diagnosis or history of injury was provided. Five days after the June 4, 1998 incident, on June 9, 1998, appellant was examined by Dr. Martin I. Boyer, a hand surgeon, and underwent surgical repair of her first dorsal compartment on June 19, 1998. In a Form CA-20 dated June 30, 1998, Dr. Boyer provided a history of appellant tripping when working, grabbing a banister and falling with resultant pain and edema on her thumb on June 4, 1998 and indicated that appellant's condition was caused or aggravated by employment activity by checking "yes" in a box. In his

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ Appellant's burden of proof includes the submission of rationalized medical evidence based upon a complete factual and medical background showing causal relationship between the claimed injury and employment factors; see *Mary J. Briggs*, 37 ECAB 578 (1986); *Joseph T. Gulla*, 36 ECAB 516 (1985).

June 30, 1998 report, Dr. Boyer indicated that appellant was referred to him by Dr. Kramer for surgery and noted that there was no documentation for the injury experienced by appellant that began the symptoms of first dorsal compartment tenosynovitis. In a subsequent report of August 11, 1998, Dr. Boyer advised that appellant presented to his office at the referral of Dr. Kramer, after failure of conservative management following an injury sustained at work. Dr. Boyer related that appellant's injury of June 4, 1998 resulted in the tenosynovitis which required surgical release. He stated that the injury to appellant's thumb happened whereby her right foot slipped while her hand was gripping a banister. Dr. Boyer noted that appellant described this injury as being a separate injury from the initial injury for which she saw Dr. Kramer; however, he noted that the injury was in the same area.

Although Dr. Boyer causally relates appellant's thumb condition to the incident of June 4, 1998, the record does not reveal that Dr. Boyer knew of appellant's prevailing prior condition for which she was undergoing conservative treatment with Dr. Kramer. In his June 30, 1998 report, Dr. Boyer noted that there was no documentation of the injury which began appellant's symptoms of first dorsal compartment tenosynovitis. In his August 11, 1998 report, Dr. Boyer noted that although appellant described the June 4, 1998 injury as being separate from the injury for which she sought treatment from Dr. Kramer, the same area was affected. Accordingly, Dr. Boyer does not appear to have a complete medical history or have any knowledge of the March 17, 1998 incident, which has not been found to be established, as alleged. As such, Dr. Boyer's opinion on causal relationship is of diminished probative value.

The decisions of the Office of Workers' Compensation Programs dated January 14, 1999, July 31 and July 14, 1998 are hereby affirmed.

Dated, Washington, D.C.
August 16, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member