

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of KATHLEEN R. ARGUELLO and DEPARTMENT OF VETERANS AFFAIRS,  
MEDICAL CENTER, Fort Meade, SD

*Docket No. 98-1507; Submitted on the Record;  
Issued January 4, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
WILLIE T.C. THOMAS:

The issue is whether appellant has established that she developed carpal tunnel syndrome, causally related to factors of her federal employment.

On June 9, 1997 appellant, then a 51-year-old food service worker filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that she suffered from carpal tunnel syndrome as a result of her federal employment. She attributed her condition to a variety of job duties, which she characterized as requiring repetitive motions. Appellant further indicated that she first realized her condition was related to her employment on October 18, 1996.

In support of her claim, appellant submitted a February 3, 1997 report from Dr. Robert C. Finley, a Board-certified neurologist. Dr. Finley noted that he evaluated appellant for trouble involving her right upper extremity and shoulder region. He reported a history of a prior employment-related injury on October 16, 1996 when appellant was pulling a wire basket out of a dishwasher and she slipped on a wet floor, but was able to hang onto the basket with her right arm and catch herself. Dr. Finley noted that appellant's symptoms of "aching and discomfort with dysesthetic pain into the hand region" were most consistent with a "probable brachial plexus type stretch injury." He also noted that appellant had some dysesthetic pain in the thoracic region. Additionally, Dr. Finley indicated that the results of appellant's "EMG/NCV [electromyogram/nerve conduction velocity] studies were ... most consistent with findings seen with a diagnosis of carpal tunnel syndrome." However, he explained that while the test results indicated that the symptoms were prominent on both sides, appellant's current symptoms were primarily right sided.

In a follow-up report dated May 13, 1997, Dr. Finley noted that appellant's symptoms remained the same as when he previously evaluated her in February 1997. On physical examination, Dr. Finley noted, among other things, that appellant had a positive Tinel's and Phalen's on the right side, consistent with "possible" carpal tunnel syndrome. He again

commented on the earlier EMG/NCV study, noting that the findings were more prominent on the left than appellant's currently more symptomatic right side. Dr. Finley recommended that appellant see an orthopedist regarding her "possible" carpal tunnel syndrome.

Appellant also submitted progress notes from Dr. Daryl S. Dickson for May 29, June 4 and June 23, 1997. The notes included diagnoses of cervical spondylosis with radiculopathy, carpal tunnel syndrome by history and EMG, sprain right wrist aggravating carpal tunnel syndrome and sprain right knee with possible meniscus damage.

In a letter dated July 8, 1997, the Office of Workers' Compensation Programs advised appellant of the need for additional factual and medical information in order to determine appellant's eligibility for benefits. Appellant was provided 30 days within which to submit the requested information. When appellant did not respond within the allotted time, the Office again advised her of the need for additional information by letter dated August 13, 1997. She was granted an additional 30 days within which to respond. Additionally, the Office wrote to Dr. Dickson on August 13, 1997, requesting that he respond to a list of questions regarding appellant's condition and the specific cause. The Office also provided Dr. Dickson with a statement of accepted facts.

Appellant submitted additional factual information as requested by letter dated August 21, 1997.

By decision dated September 22, 1997, the Office denied appellant's claim on the basis that the medical evidence was insufficient to establish that her claimed condition was caused by factors of her federal employment.<sup>1</sup> The Office noted that additional medical evidence had been requested, but was not received. Consequently, the Office concluded that the record lacked rationalized medical opinion evidence in support of appellant's claim for benefits.

Appellant subsequently filed a request for reconsideration on September 30, 1997. The relevant evidence submitted on reconsideration consisted of a September 22, 1997 report from Dr. Dickson, which included a diagnosis of bilateral carpal tunnel syndrome by EMG. He noted that appellant's condition was worse on the left side than on the right side. With respect to the cause of appellant's carpal tunnel syndrome, Dr. Dickson explained that it was difficult to state whether the condition was a specific result of appellant's work factors or whether it could have possibly been related to the traumatic injury she sustained on October 16, 1996. He concluded that he was "unable to say with 100 percent certainty exactly what would have been the etiology of the carpal tunnel syndrome." Dr. Dickson also prepared a September 18, 1997 work capacity evaluation (Form OWCP-5c) and provided his progress notes for the period October 21 through October 29, 1996.

The Office also received a May 8, 1997 x-ray of appellant's right wrist, which was interpreted as demonstrating "no evidence of fracture or dislocation." Additionally, appellant

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<sup>1</sup> Additionally, the Office noted that appellant had previously sustained an employment-related traumatic injury on October 16, 1996, which had been accepted for right shoulder sprain, right hand sprain and back strain. The record also indicates that appellant sustained another traumatic injury on April 28, 1997, which the Office accepted for a bruised right elbow.

submitted a November 14, 1996 report from Dr. Larry L. Teuber, a Board-certified neurosurgeon, who diagnosed “[r]ight arm and hand pain with thumb hyperesthesia.” The record also includes an August 21, 1997 follow-up evaluation from Dr. Finley, in which he reported a worsening of appellant’s symptoms and referred her for surgical evaluation for the “possibility of carpal tunnel.” Dr. Finley also interpreted appellant’s February 3, 1997 EMG/NCV study as “minimally abnormal” and “consistent with those seen in carpal tunnel.” Lastly, appellant submitted clinical records from Dr. Steven Goff, a physiatrist. With respect to appellant’s right upper extremity, Dr. Goff stated in his March 19, 1997 records that “[i]t certainly is likely that appellant sustained a stretch type injury.”

On October 30, 1997 the Office referred appellant for a second opinion evaluation with Dr. Philip Heyman, a Board-certified orthopedic surgeon, who in a report dated November 19, 1997, noted appellant’s chief complaint as ““excruciating pain in her right shoulder, neck, arm, forearm and hand.”” Upon physical examination, he indicated that while appellant had subjective symptoms of diffuse arm pain radiating from her shoulder to her hand, there were no objective findings present. Dr. Heyman further noted that appellant had “normal muscle development, full motion, normal x-rays,” and that there was nothing in her medical records that clearly pointed to any anatomical process. He stated that “the best label for [appellant’s] condition [was] nonspecific diffuse right upper extremity symptoms.” Dr. Heyman further indicated that “there [was] no hard evidence of anatomical pathology or physical problem.” As such, he explained that anatomical treatments such as surgery or therapy were “best avoided.”

In a merit decision dated January 20, 1998, the Office denied modification of the September 22, 1997 decision. The Office reviewed the additional medical evidence submitted on reconsideration and noted that the claim had been referred for a second opinion evaluation for clarification of the medical issues. In light of Dr. Heyman’s November 19, 1997 findings, the Office concluded that the evidence failed to establish a medical diagnosis related to appellant’s federal employment.

The Board finds that appellant has not met her burden of proof in establishing that she developed carpal tunnel syndrome causally related to factors of her federal employment.

In an occupational disease claim, in order to establish that an injury was sustained in the performance of duty, 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 appellant 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.<sup>2</sup>

Appellant initially attributed her claimed condition of carpal tunnel syndrome to certain repetitive job duties, which included moping floors, serving food and beverages, loading and unloading a dishwasher, bagging bread and cookies and sorting trash for recycling. She

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<sup>2</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

subsequently alleged that her condition developed as a result of a stretched nerve she initially sustained while in the performance of duty on October 16, 1996.

With respect to appellant's allegation that her current condition was a consequence of a previously accepted traumatic injury, it is an accepted principle of workers' compensation law that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause.<sup>3</sup> The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.<sup>4</sup> Thus, once the work-connected character of any condition is established, the subsequent progression of that condition remains compensable so long as the worsening is not the result of an independent, nonindustrial cause.<sup>5</sup>

The issue of whether appellant's claimed condition arose as a consequence of an earlier employment-related injury or is the result of certain repetitive job duties is secondary to the question of whether appellant has submitted sufficient medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed. Here, the Office denied appellant's claim on the basis that she failed to establish the existence of her claimed condition of carpal tunnel syndrome.

In the instant case, Dr. Dickson provided the only definitive diagnosis of carpal tunnel syndrome. He based his opinion in part on Dr. Finley's apparent diagnosis of carpal tunnel syndrome.<sup>6</sup> However, contrary to Dr. Dickson's impression, Dr. Finley did not specifically diagnose appellant as suffering from carpal tunnel syndrome. While Dr. Finley interpreted appellant's February 3, 1997 EMG/NCV study as "minimally abnormal" and "consistent with those seen in carpal tunnel," he did not provide an unequivocal diagnosis of carpal tunnel syndrome. Instead, Dr. Finley repeatedly referred to appellant's condition as "possible" carpal tunnel syndrome. Moreover, his most recent report dated August 21, 1997, indicates that he referred appellant for surgical evaluation for the "possibility of carpal tunnel." In view of the equivocal nature of Dr. Finley's opinion, it is insufficient to establish that appellant suffers from carpal tunnel syndrome. Furthermore, Dr. Dickson's diagnosis of carpal tunnel syndrome is undermined by his reliance upon Dr. Finley's equivocal opinion. Additionally, neither Drs. Teuber nor Goff provided a diagnosis of carpal tunnel syndrome. Dr. Goff merely speculated that appellant sustained a "stretch type injury" and Dr. Teuber diagnosed "right arm and hand pain with thumb hyperesthesia." Finally, Dr. Heyman, in his report dated November 19, 1997, stated that "the best label for [appellant's] condition [was] nonspecific

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<sup>3</sup> See *Charlet Garrett Smith*, 47 ECAB 562 (1996); A. Larson, *The Law of Workmen's Compensation* § 13.00.

<sup>4</sup> A. Larson, *The Law of Workmen's Compensation* § 13.11.

<sup>5</sup> *Id.* at § 13.11(a); see *John R. Knox*, 42 ECAB 193, 196 (1990).

<sup>6</sup> Dr. Dickson's May 29, 1997 progress notes indicate that appellant "had [an] evaluation by the neurologist Dr. Finley who did an EMG and diagnosed ... carpal tunnel syndrome." In his June 4, 1997 progress notes, Dr. Dickson indicated "I received the note from Dr. Finley about [appellant's] EMG and this confirms the suspicion (sic) of carpal tunnel syndrome."

diffuse right upper extremity symptoms.” He further indicated that “there [was] no hard evidence of anatomical pathology or physical problem.” Dr. Heyman not only examined appellant, but also reviewed the medical records and provided a reasoned explanation for his conclusion. Appellant has failed to establish that she suffers from carpal tunnel syndrome.

The decisions of the Office of Workers’ Compensation Programs dated January 20, 1998 and September 22, 1997 are, hereby, affirmed.

Dated, Washington, D.C.  
January 4, 2000

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Willie T.C. Thomas  
Alternate Member