

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GLORIASTEIN SMITH and U.S. POSTAL SERVICE,
COMPUTERIZED FORWARDING SERVICES, St. Louis, MO

*Docket No. 99-1030; Submitted on the Record;
Issued February 22, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant met her burden of proof to establish that she sustained bilateral carpal tunnel syndrome causally related to factors of her employment.

On November 29, 1996 appellant, then a 49-year-old automated mark-up clerk, filed a claim alleging that her bilateral carpal tunnel syndrome was caused by work factors. She indicated that her symptoms began in December 1995 when she was working as a mailhandler. Appellant began working in the computerized forwarding department in February 1996 as a clerk and her condition worsened. She attributed her condition to loading and keying large volumes of mail, which she estimated comprised 90 percent of her job. Appellant alleged that she often worked the same task for more than two hours without being rotated. She underwent a right carpal tunnel release in December 1996.

By decision dated September 3, 1997, the Office of Workers' Compensation Programs denied appellant's claim. By letter dated October 1, 1997, appellant requested an oral hearing, which was held on May 28, 1998. By decision dated July 28, 1998, the Office hearing representative set aside the Office's September 3, 1997 decision and remanded the case for further development. By decision dated November 20, 1998, the Office denied appellant's claim on the grounds that her carpal tunnel syndrome was not caused or aggravated by her employment.

In a statement dated December 20, 1996, appellant's supervisor indicated that procedures called for rotation from keying after a maximum of 2 hours with a minimum of 30 minutes between keying assignments. In a letter dated December 20, 1996, an employing establishment compensation specialist stated that appellant was hired to work the holiday season from December 2 to 31, 1995 and was reinstated to a career position effective February 17, 1996. Appellant's employment application indicated that she had done computer, secretarial and clerical work for various employers during the previous 11 years.

In notes dated November 25, 1996, Dr. Paul R. Manske, a Board-certified orthopedic surgeon of professorial rank, related that since March 1996 appellant had experienced decreased sensation in both hands, which awakened her at night. He indicated that her symptoms were aggravated by working and sorting mail and using a keyboard. Dr. Manske noted that a nerve conduction test performed by another physician was compatible with carpal tunnel syndrome. He provided findings on examination and diagnosed bilateral carpal tunnel syndrome.

In a report dated January 8, 1997, Dr. Manske stated that appellant's carpal tunnel syndrome was caused or aggravated by her employment duties, which included repetitive use of the keyboard and sorting mail. He noted that appellant had undergone surgery on the right hand on December 13, 1996.

In a report dated September 24, 1998, Dr. James P. Emanuel, a Board-certified orthopedic surgeon and an Office referral physician, provided a history of appellant's condition and noted that her job entailed keyboard entry and physical work such as unloading carts and mail bins, and processing and lifting mail. He provided findings on examination and stated that appellant had degenerative disc disease. Dr. Emanuel added:

“The fact that she has persistent neurologic complaints in the left arm suggests the possibility of a double crush syndrome with regards to carpal tunnel and the possibility of a cervical radiculopathy. I am unable to provide a direct and causal relationship between her condition in the neck with her work-related injuries.... [A]ny problems in her neck radiating down into her arm [are] most likely secondary to degenerative condition rather than a traumatic condition.”

In a report dated October 13, 1998, Dr. Emanuel stated that appellant was a mailhandler for approximately four weeks, loading and unloading trucks, trucking mail to the employing establishment, setting down and setting up bag racks, operating cleaning and oiling machines. He noted that she did not perform keyboard entry at that time but that she began a position in February 1996 which involved 22 percent keying activities and rotating jobs that included prepping mail, billing, unzipping pouches and removing contents, labeling and addressing cards.

Dr. Emanuel related that appellant first experienced symptoms approximately one month after the onset of this position and sought initial treatment seven months following the onset of her condition. He related that a nerve conduction study and electromyogram revealed bilateral median neuropathy at the flexor retinaculum or carpal tunnel, right side worse than the left. He stated:

“I do not feel, based on these findings, that [appellant] had worked on her job for a sufficient period of time to establish a direct causal relationship between her work and the development of carpal tunnel syndrome. It is very possible that [appellant] had carpal tunnel syndrome preexistent to her starting a job at [the employing establishment] due to the fact that she, prior to that, was involved as a secretary ... in three or four different secretarial roles which include keyboarding. I am not able to say that there is a direct and causal relationship between the type of work she performed and the development of carpal tunnel syndrome.”

In a report dated November 2, 1998, Dr. Emanuel indicated that because appellant was performing rotating jobs at the employing establishment and never performed one particular job in a repetitive manner, it was his opinion, based on a reasonable degree of medical certainty, that her carpal tunnel condition was not aggravated, accelerated or precipitated by factors of her federal employment.

The Board finds that this case is not in posture for decision due to an unresolved conflict in the medical evidence.

Section 8123(a) of the Federal Employees' Compensation Act provides, in pertinent part, "If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination."¹

In this case, there is a conflict in the medical evidence between Dr. Manske, appellant's physician and Dr. Emanuel, an Office referral physician, as to whether her carpal tunnel syndrome was causally related to her work duties. On remand, the Office should refer appellant to an impartial medical specialist for an examination and evaluation to resolve this conflict. After such further development as the Office deems necessary, the Office shall issue a *de novo* decision.

The decision of the Office of Workers' Compensation Programs dated November 20, 1998 is set aside and the case is remanded for further action consistent with this decision of the Board.

Dated, Washington, DC
February 22, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member

¹ 5 U.S.C. § 8123(a); *see James P. Roberts*, 31 ECAB 1010 (1980).