

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOE B. BERRY, JR. and DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION, Longmont, CO

*Docket No. 01-962; Submitted on the Record;
Issued November 16, 2001*

DECISION and ORDER

Before BRADLEY T. KNOTT, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has established that he developed left unilateral carpal tunnel syndrome while in the performance of duty.

On March 22, 2000 appellant, then a 43-year-old air traffic controller, filed a claim alleging that his left carpal tunnel syndrome was causally related to using his new workstation. On March 29, 2000 the employing establishment controverted appellant's claim stating that by union agreement controllers were not required to spend more than two consecutive hours performing operational duties without a break and that appellant was not performing repetitive motion duties. The employing establishment noted that appellant worked a total of 3 hours and 40 minutes per shift in an operational position, which was broken up by breaks.

In support of his claim, appellant submitted a March 6, 2000 report from Dr. David L. Roter, a Board-certified orthopedist, which noted that appellant was right-hand dominant, that he complained of tightness around the left shoulder with transient radiation of pain into the forearm and that he had full range of left shoulder motion without significant crepitation. Dr. Roter stated that appellant had a mildly positive Phalen's test on the left with no objective motor or sensory deficits, and that Tinel's sign at the wrist was negative. He diagnosed early carpal tunnel syndrome and potential thoracic outlet syndrome, and recommended remedial exercises.

Appellant also submitted a curriculum vitae indicating that he had been an air traffic controller since February 1980. He claimed that in November 1999 he experienced pain in his left wrist, left elbow and left shoulder. Appellant claimed that he had a cumulative trauma and repetitive stress disorder on the left due to the table height, view angles and keyboard heights which were not adjustable, and that additional torque was necessary to "stuff" the new paper flight plan strips into holders. Appellant added that during the first week of March 2000 the pain became more intense.

By decision dated June 9, 2000, the Office of Workers' Compensation Programs denied appellant's claim finding that the evidence of record did not establish a causal relationship between his condition and his work duties.

By letter dated October 11, 2000, appellant requested reconsideration and submitted a September 25, 2000 report from Dr. Roter who further evaluation demonstrated early degenerative cervical disc disease at C5-6 with potential referred pain into the left upper extremity. Recommendations for an improved ergonomic work environment were reiterated.

Appellant stated that he was moved around to different positions as the workload required, that particular positions lasted from 10 minutes to 2 hours and that his duties required inserting paper strips into holders, removing paper strips, sliding the paper strips, removing strip holders and placing strips in a sector flight strip bay. He also noted that he had to write control symbols on flight strips, reach to adjust headsets, activate a handheld headset transmitter button and use his left hand to squeeze the body of the actuator and press the microphone key. He claimed that he had to type extensive keyboard entries for flight plan amendments and update message acknowledgments and flight plan inquiries/conformations.

Appellant stated that actuating the interphone keypad required use of his right hand 60 percent of the time and his left hand 40 percent of the time, that utilizing the trackball mechanism to control radar display data required use of his right hand 70 percent of the time and his left hand 30 percent of the time and that typing required the use of both hands. He noted that he worked from four to six hours, taking into account breaks and lunch, at a position during an eight-hour shift. Appellant claimed that the work was very stressful.

Appellant additionally submitted an ergonomic workplace analysis by a physical therapist. She opined that the chairs should have adjustable arm rests, that slouching should be avoided, that the strips were difficult to insert in the holders, that appellant's chair was too low, that monitoring screens required constant neck extension and that employee education was needed.

By memorandum dated June 30, 2000, appellant claimed that the employing establishment's statements were false, grossly inaccurate, contradictory and unsubstantiated, and that they were hearsay and that some chairs were wrong for the persons using them.

Appellant also submitted staffing schedules, union publications and a union survey of other air traffic controllers questioning whether they had health complaints they believed were related to work.¹ The surveys reported complaints of lower back pain, upper back pain, neck pain, right thumb pain, shoulder pain, elbow pain, forearm pain, wrist pain, hand pain, "ankle/knee" pain and headaches. Several questionnaires failed to identify any pain.

By letter dated November 16, 2000, the employing establishment reiterated that appellant was not performing repetitive motions for prolonged periods of time which could cause repetitive stress or cumulative trauma injuries.

¹ The survey specifically asked about neck, shoulder, arm, elbow, wrist, hand and "other" pain.

By decision dated November 21, 2000, the Office denied appellant's reconsideration request finding that the evidence submitted in support was insufficient to warrant modification.

The Board finds that appellant has failed to establish that he sustained left unilateral carpal tunnel syndrome causally related to factors of his federal employment.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;² (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed;³ 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.⁴ The medical evidence required to establish causal relationship, generally, is rationalized medical opinion 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,⁵ must be one of reasonable medical certainty,⁶ 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.⁷

In this case, appellant has not submitted any medical evidence explaining how and why he sustained left carpal tunnel syndrome, causally related to his federal duties.

Dr. Roter diagnosed early carpal tunnel syndrome and potential thoracic outlet syndrome on the left, but he had no positive nerve testing to confirm his diagnosis and he did not explain how appellant developed carpal tunnel syndrome in his nondominant hand, which was not used for writing flight plan slips. Therefore, Dr. Roter's March 6, 2000 report is not sufficiently rationalized and therefore insufficient to establish appellant's claim. In his subsequent September 25, 2000 report, Dr. Roter noted his earlier diagnoses but stated that further evaluation demonstrated early degenerative cervical disc disease at C5-6. Therefore, Dr. Roter's more recent report, did not support appellant's claim of work-related left carpal tunnel syndrome.

² See *Walter D. Morehead*, 31 ECAB 188, 194 (1979).

³ See *Ronald K. White*, 37 ECAB 176, 178 (1985).

⁴ See generally *Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ See *William E. Enright*, 31 ECAB 426, 430 (1980).

Findings from a physical therapist cannot be considered to be probative medical evidence supporting appellant's left carpal tunnel syndrome claim.⁸ Appellant also submitted excerpts from the internet, the union and other publications. These documents do not constitute probative medical evidence, because such excerpts are of general application and are not specific to appellant's case.⁹ Appellant further submitted survey results, which are not probative of appellant's claim because they address other employees' subjective problems and complaints.¹⁰

The decisions of the Office of Workers' Compensation Programs dated June 9 and November 21, 2000 are hereby affirmed.

Dated, Washington, DC
November 16, 2001

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁸ See *Jennifer L. Sharp*, 48 ECAB 209 (1996); *Thomas R. Horsfall*, 48 ECAB 180 (1996) (physical therapists are not considered to be "physicians" under the Act.)

⁹ See *Ronald M. Cokes*, 46 ECAB 967 (1995); *Ruby L. Fish*, 46 ECAB 276 (1994).

¹⁰ The Board notes that the most complaints were regarding upper and lower back problems and pain, including the neck, and did not implicate carpal tunnel syndrome as a commonly complained of malady.