

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CYNTHIA GREENE and U.S. POSTAL SERVICE,  
POST OFFICE, Baltimore, MD

*Docket No. 02-1157; Submitted on the Record;  
Issued March 3, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant met her burden of proof in establishing that she sustained an injury in the performance of duty on October 2, 1996.

Appellant, a 36-year-old clerk, filed a notice of occupational disease alleging that on October 2, 1996 she had pain and numbness in her right hand.<sup>1</sup> She submitted a magnetic resonance imaging (MRI) report dated May 29, 2001, electrodiagnostic results, a report from Dr. John B. Naiman, a Board-certified orthopedic surgeon, and a history of dates of medical treatment.<sup>2</sup> Dr. Naiman stated that appellant was treated for right arm pain and numbness and had had problems since 1996. The MRI of the cervical spine showed mild cervical spondylosis with no definite evidence of disc herniation or spinal canal stenosis. A duty status report from Dr. Stephanie Linder, a Board-certified internist, dated May 8, 2001, indicated carpal tunnel syndrome, bilateral tendinitis, swelling in fingers, hand pain and wrist, yet Dr. Linder did not provide a diagnosis for the condition.<sup>3</sup>

By letters dated October 29, 2001, the Office of Workers' Compensation Programs informed appellant that the information submitted with her claim was insufficient to establish that she sustained an injury at work. They requested that appellant submit medical records, including a physician's opinion supported by a medical explanation and other factual information.

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<sup>1</sup> The CA-1 form is not found in the record; the October 2, 1996 date of injury was taken from the notice of recurrence of disability.

<sup>2</sup> The record indicates that appellant's condition may have been caused by keying or fine manipulation.

<sup>3</sup> Appellant also filed a notice of recurrence of disability.

By decision dated February 8, 2002, the Office denied appellant's claim, as the evidence was insufficient to meet the guidelines for establishing that she sustained an injury due to an employment factor.

The Board finds that appellant did not meet her burden of proof in establishing that she sustained an injury in the performance of duty on October 2, 1996.

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 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 evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is insufficient to establish causal relation.<sup>4</sup>

In this case, the Office, in its February 8, 2002 decision, accepted that appellant actually experienced the claimed factor of employment.<sup>5</sup> Appellant did not, however, submit any medical evidence to establish a diagnosis concerning her hand or arm or a causal relationship between employment factors and her condition. At the time the Office denied appellant's claim on February 8, 2002, the record contained an MRI report indicating mild cervical spondylosis, electrodiagnostic results, a report from Dr. Naiman and a history of dates of medical treatment. Dr. Naiman, in his report, did not provide a diagnosis or opine on the cause of appellant's condition and did not mention employment factors. At the time of the Office's February 8, 2002 decision, the record did not contain any rationalized medical opinion evidence diagnosing appellant's condition and relating her condition to employment factors.<sup>6</sup>

Appellant contends on appeal that she did not receive the Office's October 29, 2001 letters requesting that she submit additional factual and medical evidence in support of her claim. The Board has found, under the mailbox rule, that it is presumed, absent evidence to the contrary, that a notice mailed to an individual in the ordinary course of business was received by that individual and copies of the letters show appellant's correct address of record.<sup>7</sup> In this case, the October 29, 2001 letters show appellant's correct address of record and it is thus presumed that appellant received the letters in the ordinary course of business. There is no evidence to the contrary.

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<sup>4</sup> *Haydee Martinez*, Docket No. 01-833 (issued October 29, 2001).

<sup>5</sup> The Office did not state what the claimed employment factor was.

<sup>6</sup> Appellant submitted additional evidence to the Board, however, since this evidence was received after the Office's February 8, 2002 final decision, it may not be considered by the Board on appeal. 20 C.F.R. § 501.2(c).

<sup>7</sup> *Clara T. Norga*, 46 ECAB 473 (1995).

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty on October 2, 1996, since sufficient medical evidence was not received.

The February 8, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
March 3, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member