

On April 23, 2002 appellant, then a 51-year-old distribution clerk, filed an occupational disease claim alleging that she developed carpal tunnel syndrome due to years of processing

mail.<sup>1</sup> She indicated that on April 16, 2002 she experienced pain, numbness, swelling and redness in her hands and fingertips. On May 1, 2002 appellant underwent surgery for her bilateral carpal tunnel syndrome consisting of bilateral neurolysis (release) of the median nerves performed by Dr. Gary R. Rombough, an attending Board-certified orthopedic surgeon.

In an April 24, 2002 statement, appellant indicated that her condition occurred when she lifted a full tub of mail on April 16, 2002. She felt numbness in both hands on April 5, 2002 but her condition worsened. On April 16, 2002 she experienced severe pain and swelling and swelling in her hands and fingers while lifting and distributing full tubs of mail.

By decision dated August 20, 2002, the Office denied appellant's claim on the grounds that the medical evidence did not establish that her bilateral carpal tunnel syndrome was caused or aggravated by her job activities.

In an August 29, 2002 report, Dr. Rombough stated that appellant picked up a heavy object at work on April 16, 2002 and developed numbness in her hands with severe pain and swelling. He indicated that an electromyogram (EMG) was positive for carpal tunnel syndrome. Dr. Rombough indicated that appellant denied any problems with her hands prior to April 16, 2002. He stated, "It is my opinion that her symptoms of carpal tunnel syndrome are directly related to and caused by the injury at her job on April 16, 2002."

Appellant requested an oral hearing that was held on June 10, 2003. She testified that her bilateral carpal tunnel was caused by her work activity on April 16, 2002.

In an October 1, 2002 report, Dr. Alexander Haselkorn, an attending Board-certified surgeon, stated that on April 16, 2002 appellant lifted a container and experienced sharp pain in both hands and wrists. An EMG revealed carpal tunnel syndrome. He provided findings on physical examination and stated:

"My impression is that [appellant] had carpal tunnel syndrome status post surgical release. I asked her to obtain the operative notes to see if any additional ancillary procedures were done, *i.e.*, synovectomy, and I discussed options. At this time, I suggested that if she underwent some regular therapy it might help relieve her discomfort ....

"There is a ... compensation claim pending and based on the history that she provided regarding the specific incident, as well as the work activity there is a direct relationship with her symptoms."

On October 16, 2002 Dr. Haselkorn added, "[A]ddendum: carpal tunnel syndrome is episodic. Known to occur after specific incident (*i.e.*, activity)."

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<sup>1</sup> At the oral hearing held in this case, appellant testified that she attributed her carpal tunnel syndrome to her work activities on April 16, 2002, not to a prolonged period of repetitive use of her hands. She indicated that on that date she dropped a tub of mail because it was too heavy and experienced a feeling like an "electric shock" in her hands.

In a June 24, 2003 report, Dr. Raymond P. Russomanno stated that appellant sought treatment on April 16, 2002 after she picked up a heavy object at work and experienced numbness, pain and swelling in her hands. His initial diagnosis was carpal tunnel syndrome, confirmed by nerve conduction studies. Dr. Russomanno indicated that appellant was asymptomatic prior to April 16, 2002. He stated, "It is my opinion that the carpal tunnel syndrome is the cause of [appellant's] symptoms and directly related to the injury at her job [April 16, 2002]."

By decision dated August 25, 2003, an Office hearing representative remanded the case for further development.

The Office referred appellant to Dr. David Rubinfeld, a Board-certified orthopedic surgeon, for an evaluation of whether appellant sustained any injury as a result of the April 16, 2002 lifting incident at work.

In an October 21, 2003 report, Dr. Rubinfeld provided a history of appellant's condition and findings on physical examination. He diagnosed status post right and left carpal tunnel release. Dr. Rubinfeld stated, "The lifting of mail at work on April 16, 2002 did not cause [appellant's] carpal tunnel syndrome. Carpal tunnel syndrome is a repetitive trauma disorder and is unlikely to result from a single traumatic event."

By decision dated December 10, 2003, the Office denied appellant's claim on the grounds that the medical evidence did not establish that appellant's carpal tunnel syndrome was causally related to the lifting incident on April 16, 2002.

Appellant requested a hearing that was held on August 30, 2004.

In a February 27, 2004 report, Dr. Rombough stated that appellant developed pain and numbness in her hands after lifting heavy objects at work on April 16, 2002. An EMG revealed carpal tunnel syndrome and appellant underwent bilateral carpal tunnel release on May 1, 2002. He opined that she had permanent symptoms which were directly related to her work activity on April 16, 2002.

By decision dated November 8, 2004, an Office hearing representative affirmed the December 10, 2003 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of proving by the preponderance of the reliable, probative and substantial evidence that she was disabled for work as the result of an employment injury.<sup>3</sup> Monetary compensation benefits are payable to an employee who has sustained wage loss due to disability for

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Thomas M. Petroski*, 53 ECAB 484 (2002).

employment resulting from the employment injury.<sup>4</sup> Whether a particular employment injury causes disability for employment and the duration of that disability are medical issues which must be proved by a preponderance of reliable, probative and substantial medical evidence.<sup>5</sup>

### **ANALYSIS**

Dr. Rombough, Dr. Haselkorn and Dr. Russomanno noted that EMG and nerve conduction studies confirmed the diagnosis of bilateral carpal tunnel syndrome. They opined that appellant's condition was caused by lifting heavy objects at work on April 16, 2002 and that she had no problems with her hands prior to that date. Dr. Haselkorn indicated that carpal tunnel syndrome could occur after a single specific incident.

Dr. Rubinfeld, the Office referral physician, opined that the lifting of mail at work on April 16, 2002 did not cause appellant's carpal tunnel syndrome and stated, "Carpal tunnel syndrome is a repetitive trauma disorder and is unlikely to result from a single traumatic event."

The Board finds that there is a conflict in the medical opinion evidence between appellant's attending physicians and Dr. Rubinfeld on the issue of whether appellant's carpal tunnel syndrome was caused by her work activity on April 16, 2002. Section 8123(a) of the Act provides that 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.<sup>6</sup> Accordingly, the case will be remanded for further development of the medical evidence.

On remand, the Office should refer appellant, together with the case record and statement of accepted facts, to an appropriate Board-certified specialist for an evaluation to resolve the issue of whether her bilateral carpal tunnel syndrome was caused by her work activity on April 16, 2002 and, if not, whether her condition was caused or aggravated by repetitive use of her hands in her job over the course of more than one day, *i.e.*, whether her carpal tunnel syndrome may be an occupational disease. After such further development as it deems necessary, the Office shall issue a *de novo* decision.

### **CONCLUSION**

The Board finds that this case is not in posture for a decision due to a conflict in the medical opinion evidence. Further development of the medical evidence is required.

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<sup>4</sup> *Debra A. Kirk-Littleton*, 41 ECAB 703 (1990).

<sup>5</sup> *Fereidoon Kharabi*, 52 ECAB 291 (2001).

<sup>6</sup> 5 U.S.C. § 8123(a); see also *Raymond A. Fondots*, 53 ECAB 637 (2002); *Rita Lusignan (Henry Lusignan)*, 45 ECAB 207 (1993).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 8, 2004 is set aside and the case is remanded for further development consistent with this decision.

Issued: February 16, 2006  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board