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E.W., Appellant)	
)	
and)	Docket No. 07-1827
)	Issued: August 12, 2008
DEPARTMENT OF HOMELAND SECURITY,)	
TRANSPORTATION SECURITY)	
ADMINISTRATION, Seattle, WA, Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge

On June 28, 2007 appellant filed a timely appeal from the March 30, 2007 merit decision of the Office of Workers' Compensation Programs' hearing representative, which affirmed the denial of her claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of the case.

The issue is whether appellant's duties caused a left hand or wrist injury.

On August 8, 2005 appellant, then a 57-year-old security screener, filed a claim alleging that she sustained a left hand and wrist injury as a result of her federal employment:

"I have noticed that since my return to work on May 5th I have had soreness and tired feelings in my left arm, hand and wrist. In the last few weeks, anytime I have used my left hand, it has hurt somewhat. The last few days the pain

increased to the point that the pain is intense even while running the x-ray. It hurts like the injury to my right hand.”¹

In a decision dated November 9, 2005, the Office found that the evidence was sufficient to establish that the claimed event occurred as alleged. It denied appellant’s claim because the medical evidence provided no specific diagnosis that could be connected to the event. On May 30, 2006 an Office hearing representative set aside the November 9, 2005 decision on the grounds that a conflict in medical opinion had arisen between appellant’s attending physicians, who diagnosed left wrist strain/tenosynovitis due to overuse and possible de Quervain’s disease, and the Office referral physician, who reported no objective findings of a left wrist condition and who noted that appellant exhibited profound and distinct symptom magnification throughout the evaluation. To resolve the conflict, the hearing representative remanded the case to the Office for referral to an impartial medical specialist.

The Office referred appellant, together with the case record and a statement of accepted facts, to Dr. William T. Thieme, a Board-certified orthopedic surgeon, for an impartial medical evaluation. On August 15, 2006 Dr. Thieme reviewed the nature of the conflict he was to resolve and the statement of accepted facts. He also reviewed appellant’s medical records, including reports from her attending physicians. Dr. Thieme related appellant’s history and complaints and his findings on examination. He diagnosed bilateral wrist pain without objective evidence of disease on physical examination. Dr. Thieme also diagnosed symptom magnification. He offered the following opinion:

“I believe [appellant] did not sustain a left wrist condition as a result of the light-duty position at which she worked. She has been diagnosed as having de Quervain’s disease. [Appellant] did not have a positive Finklestein’s test when distracted. The test is regarded as diagnostic of de Quervain’s disease. [Appellant’s] had an injection into the wrist first compartment which has not been beneficial. Such an injection is considered both diagnostic and therapeutic. Failure of favorable response to that injection is strong evidence against the diagnosis of de Quervain’s disease. [Appellant’s] tenderness is both proximal to and more widespread than the usual distribution with tenosynovitis. The lack of crepitation at the first compartment and extreme hypersensitivity to touch and pin prick are not characteristic of tenosynovitis. The absolute symmetry of signs and symptoms is very uncharacteristic of tenosynovitis of the wrist. For these reasons, I believe it is more probably that the patient’s condition is due to symptom magnification rather than to objective injury to the left wrist.”

In a decision dated September 22, 2006, the Office denied appellant’s claim for compensation. It found that the weight of the medical opinion evidence rested with the impartial medical specialist, Dr. Thieme, and established that she did not sustain a left wrist condition in the performance of duty.

¹ In an earlier claim, appellant sustained an injury in the performance of duty on February 22, 2005 while handling and lifting luggage. The Office accepted that claim for right wrist tenosynovitis. OWCP File No. 142038383. Appellant filed a separate appeal from a separate Office decision in that case, which the Board will review in a separate decision and order under Docket No. 07-1828.

Appellant requested an oral hearing before an Office hearing representative, which was held on January 17, 2007. In a decision dated March 30, 2007, the hearing representative affirmed the denial of her claim. The hearing representative found that the weight of the medical evidence failed to establish that appellant sustained a left wrist injury causally related to her federal employment.

LEGAL PRECEDENT

The United States shall pay compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.² An employee seeking compensation benefits has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.³

Causal relationship is a medical issue,⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. 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 established incident or factor of employment.⁷

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.⁸ When there exist opposing medical reports of virtually equal weight and rationale, and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.⁹

² 5 U.S.C. § 8102(a).

³ See generally *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

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).

⁸ 5 U.S.C. § 8123(a).

⁹ *Carl Epstein*, 38 ECAB 539 (1987); *James P. Roberts*, 31 ECAB 1010 (1980).

ANALYSIS

The Office does not dispute the duties appellant performed as a security screener prior to filing her claim for compensation benefits on August 8, 2005. It accepts that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The only question is whether these duties caused an injury and on this issue physicians disagreed.

To resolve the conflict that arose between appellant's attending physicians, who diagnosed a left wrist condition due to overuse, and the Office referral physician, who reported no objective findings and profound symptom magnification, the Office properly referred appellant to an impartial medical specialist. The Office provided Dr. Thieme, a Board-certified orthopedic surgeon, with appellant's medical record and a statement of accepted facts so he could base his opinion on a proper medical and factual history. After reviewing the medical records from appellant's attending physicians, appellant's current complaints and his findings on examination, Dr. Thieme concluded that appellant did not injure her left wrist as a result of working her light-duty position. He explained that a test diagnostic of de Quervain's disease was negative and that the failure of an injection that was considered to be both diagnostic of and therapeutic for de Quervain's was strong evidence that appellant did not have the reported disease. Dr. Thieme also ruled out tenosynovitis on several grounds: appellant's tenderness did not fit the usual distribution of the condition; the lack of crepitation at the first compartment and extreme hypersensitivity to touch and pinprick were not characteristic of the condition; and the absolute symmetry of signs and symptoms was very uncharacteristic. Unable to find objective evidence of any left wrist injury, Dr. Thieme concluded that appellant's presentation was more likely due to symptom magnification.

The Board finds that the opinion of the impartial medical specialist is based on a proper history and is medically well reasoned. It is therefore accorded special weight in resolving the conflict that arose on whether appellant's duties caused a left hand or wrist injury. Because the weight of the medical opinion evidence fails to establish that appellant's duties caused such an injury, the Board finds that appellant has not met her burden of proof. The Board will affirm the hearing representative's March 30, 2007 decision denying benefits.

CONCLUSION

The Board finds that the weight of the medical opinion evidence fails to establish that appellant's duties caused a left hand or wrist injury.

ORDER

IT IS HEREBY ORDERED THAT the March 30, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 12, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board