

**United States Department of Labor
Employees' Compensation Appeals Board**

J.F., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Perry, OH, Employer**

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**Docket Nos. 10-1451,
10-1452, 10-1453
Issued: February 11, 2011**

Appearances:

Alan J. Shapiro, Esq., for the appellant

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge

COLLEEN DUFFY KIKO, Judge

JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 26, 2010 appellant filed a timely appeal of October 28, 2009 and April 13, 2010 decisions of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that her bilateral wrist condition was causally related to factors of her employment.

FACTUAL HISTORY

On August 10, 2009 appellant, then a 60-year-old rural letter carrier, filed an occupational disease claim alleging that she suffered from bilateral carpal tunnel due to moving and bending her wrists while casing and delivering mail at work.¹ She reported that she first

¹ Appellant filed the same occupational disease claim three times. These claims were consolidated by the Branch of Hearings and Review.

became aware of her carpal tunnel in August 2007 and realized that it resulted from her work duties in January 2008. Appellant retired on September 16, 2008. She also submitted a Form SF50, Notification of Personnel Action, and a letter from her attorney.

In a September 8, 2009 letter, the employing establishment controverted appellant's claim on the grounds of insufficient medical evidence establishing a medical diagnosis or causal relationship between factors of her employment and the claimed condition.

In a September 23, 2009 letter, the Office advised appellant that the evidence submitted was insufficient to establish her claim and requested additional information from her. It specifically asked her to describe in detail the employment-related activities, which she believed contributed to her condition, including how often and for how long she performed these duties on each occasion and describe all activities outside of her federal employment, the development of the claimed condition and all previous injuries to her hand, arm and wrist. The Office also requested a comprehensive medical report from appellant's treating physician, which should include a description of her symptoms, results of her examination and tests, diagnosis, treatment provided and a physician's opinion, with medical reasons, regarding the cause of her condition.

On October 26, 2009 the Office received an electromyogram (EMG) report for a study performed on December 28, 2007. This report noted that there was no evidence of sensory cervical radiculopathy but the findings were consistent with bilateral carpal tunnel syndrome.²

By decision dated October 28, 2009, the Office denied appellant's claim on the grounds of insufficient evidence establishing that she sustained an injury in the performance of duty. It stated that she failed to submit evidence describing specific work duties, providing specific time periods of her work duty or quantifying the amount of time and frequency spent performing these duties. In addition, the Office pointed out that the record did not contain any medical evidence providing a history of injury, diagnosis, description of work-related factors or physician's opinion regarding whether appellant's carpal tunnel resulted from her employment factors.

In a letter dated November 17, 2009, appellant, through her representative, appealed the October 28, 2009 decision before the Branch of Hearings and Review and requested a telephone hearing. She also submitted as evidence copies of e-mail correspondence between herself and her representative dated July 29 and October 19, 2009 describing her employment duties and how often and for how long she performed these duties. Appellant further noted her surgeries in April and May 2008. Her prior injuries included a 1996 sprain at work and a December 2006 right hand and arm injury resulting from a fall at work.

On February 18, 2010 a telephone hearing was held. Appellant first provided factual background regarding her employment duties. She stated that she worked for the employing establishment from May 1981 until she retired in September 2008. Appellant's duties included retying tubs of flats, casing them, which involved folding some to fit into the mail case, retrieving the letter mail and organizing them in sequential order. She stated that she was five feet, three inches tall and the cases she worked with were approximately six feet tall with around

² The Office initially associated this study with File No. xxxxxx182.

544 call boxes. Appellant's movements while casing mail involved reaching, bending, stooping, picking up mail and putting them into the boxes. After casing the mail, she placed the mail into trays and loaded the trays into her car for delivery. While delivering mail, appellant described the movement as constant pushing and pulling to open and close the mailboxes. She further noted that she worked an average of five or six hours a day, which meant she performed these duties roughly 3,950 times a day.

Regarding a history of her medical condition, appellant stated that her hands and wrists gradually began to ache until it worsened to the point where she was waking up about 12 times a night. She reported that the first physician she visited was Dr. Michael Kellis, an orthopedist, who ordered an EMG. Appellant stated that the EMG revealed she had carpal tunnel. She further reported that she had surgery on her wrist by Dr. Harmat and on her shoulder by Dr. Sarkisen in April and May 2008. Appellant also stated that the surgery helped to alleviate much of the pain. In addition, she noted that she wore braces to keep her arms straight and took medication for her bipolar condition. Appellant's last treatment for her wrist condition was right before she retired. The hearing representative requested copies of all the treatment notes and a medical report from her physician, but none of these reports appear in the record.

In addition, appellant stated that she first became aware of her wrist condition in August 2007. She continued to work full time and noted that she did not request time off because she was intimidated by her boss. Appellant stated that one reason she waited for over a year to file a claim was because she was afraid of her boss' response.

In a decision dated April 13, 2010, a hearing representative affirmed the October 28, 2009 Office decision denying appellant's claim. The hearing representative accepted that she provided sufficient evidence that her work duties as a rural letter carrier required constant bending, stopping, grasping, reaching and repetitive movement of her wrists and hands. The hearing representative, however, determined that appellant did not provide sufficient medical evidence establishing a diagnosed medical condition that was causally related to the specified work factors. The hearing representative pointed out that she did not submit a physician's report with his opinion, based on an accurate factual and medical background and stated medical reasons, regarding whether her employment factors caused or aggravated appellant's diagnosed condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of proof to establish the essential elements of her claim by the weight of the reliable, probative and substantial evidence.⁴ In a claim for occupational disease, that burden of proof includes: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is

³ 5 U.S.C. §§ 8101-8193.

⁴ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁵

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁶ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the specified employment factors or incident.⁷ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty 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 employee.⁸ The mere fact that work activities may produce symptoms revelatory of an underlying condition does not raise an inference of an employment relation. Such a relationship must be shown by rationalized medical evidence of a causal relation based upon a specific and accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition.⁹

ANALYSIS

The Board finds that appellant failed to meet her burden of proof to establish that she sustained an injury in the performance of duty. The Office accepted her alleged factors of employment including grasping, reaching and repetitive movement of her wrists and hands associated with her job as a letter carrier. The Board affirms the denial of the claim on the grounds that appellant failed to submit sufficient medical evidence establishing that her bilateral wrist condition was causally related to these particular employment activities.

The Office advised appellant to submit a comprehensive medical report containing a diagnosis and a physician's opinion, with stated medical reasons, regarding whether her diagnosed condition was causally related to the particular employment activities. The only medical evidence of record is the December 28, 2007 EMG report which was reported as consistent with findings of bilateral carpal tunnel syndrome. While this report contained a diagnosis of appellant's condition, it did not provide any medical opinion regarding the cause of the diagnosed condition.¹⁰

⁵ See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁶ *I.R.*, 61 ECAB ____ (Docket No. 09-1229, issued February 24, 2010); *W.D.*, 61 ECAB ____ (Docket No. 09-658, issued October 22, 2009); *D.I.*, 59 ECAB 158 (November 6, 2007).

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *D.S.*, 61 ECAB ____ (Docket No. 09-860, issued November 2, 2009); *B.B.*, 59 ECAB 234 (2007).

⁹ *Patricia Bolleter*, 40 ECAB 373 (1988).

¹⁰ Although appellant reported visiting a number of physicians and surgeries, these reports do not appear in the record.

Appellant failed to submit the necessary medical evidence which explained, with medical rationale, how her accepted factors caused her diagnosed condition.¹¹

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her bilateral carpal tunnel syndrome was sustained in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the April 13, 2010 and October 28, 2009 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: February 11, 2011
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹¹ *Donald W. Wenzel*, 56 ECAB 390 (2005); *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).