

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

G.G., Appellant)

and)

DEPARTMENT OF VETERANS AFFAIRS,)
VETERANS ADMINISTRATION MEDICAL)
CENTER, Hampton, VA, Employer)

Docket No. 07-1866
Issued: December 10, 2007

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On July 6, 2007 appellant timely appealed the May 21, 2007 merit decision of the Office of Workers' Compensation Programs, which denied his occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of the claim.¹

ISSUE

The issue is whether appellant sustained an injury in the performance of duty.

FACTUAL HISTORY

On January 29, 2007 appellant, a 55-year-old housekeeping aide supervisor, filed a claim for bilateral carpal tunnel syndrome. He identified October 1, 2001 as the date of injury.

¹ The record on appeal contains evidence that was received after the Office issued its May 21, 2007 decision. The Board may not consider evidence that was not in the case record when the Office rendered its final decision. 20 C.F.R. § 501.2 (2007).

However, it was not until October 14, 2005 that appellant first realized his condition was employment related. He attributed his carpal tunnel syndrome to moving furniture. Appellant did not initially submit any medical evidence with the January 29, 2007 claim form.

In response to the Office's February 15, 2007 request for additional information, appellant provided a February 23, 2007 statement and his Veteran Affairs (VA) medical records regarding treatment for carpal tunnel syndrome. According to the VA records, appellant underwent a right carpal tunnel release on March 31, 2006. The Office also received a June 25, 2002 attending physician's report (Form CA-20) from Dr. Tam T. Do, a Board-certified internist, who diagnosed employment-related carpal tunnel syndrome and knee arthralgia.

The VA medical records covered a six-month period from October 2005 to March 2006. Appellant was seen on October 7, 2005 with complaints of constant numbness in the right thumb and index finger dating back to July 2004. The treatment records indicated that appellant had been diagnosed with bilateral carpal tunnel syndrome in 2002 and he was currently considering surgery. The employment history noted that appellant's housekeeping duties included "repetitive motion with buffing floor [and] mop[p]ing." Appellant also had a history of cervical degenerative disc disease, with a prior surgical fusion at C6-7. He was referred for further diagnostic studies to ascertain whether his right upper extremity complaints were due to cervical radiculopathy or a worsening of his carpal tunnel syndrome. An October 12, 2005 electrodiagnostic study showed evidence of compression of the right median nerve at the wrist and there was no evidence of cervical radiculopathy affecting the right upper extremity. On March 31, 2006 appellant underwent a right carpal tunnel release. He was advised to remain off work for at least three weeks.

In his February 23, 2007 statement, appellant indicated that his employment duties involved moving furniture, lifting, pushing, pulling and grasping various objects. He stated that he worked with blowers, fans and other battery-operated equipment. Appellant also used a hand dolly to move large desks and filing cabinets. Additionally, he reported stacking and moving six-foot long tables. Appellant performed these duties from 12 to 16 hours per week.

In a decision dated May 21, 2007, the Office denied appellant's claim because the medical evidence did not establish that his carpal tunnel syndrome was related to his accepted employment exposure.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his claim by the weight of the reliable, probative

² 5 U.S.C. §§ 8101-8193 (2000).

and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.³

To establish that an injury was sustained in the performance of duty, a claimant must submit: (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 diagnosed condition is causally related to the employment factors identified by the claimant.⁴

ANALYSIS

The medical evidence establishes a diagnosis of bilateral carpal tunnel syndrome dating back at least four years prior to the filing of the current claim. On March 31, 2006 appellant had surgery on his right wrist to address his carpal tunnel syndrome. However, the medical records do not clearly establish a causal relationship between appellant's bilateral carpal tunnel syndrome and his federal employment. Dr. Do, who initially diagnosed carpal tunnel syndrome in 2002, did not identify any specific employment duties that either caused or contributed to appellant's condition. He merely responded yes to a question on a form report inquiring whether he believed the condition found was caused or aggravated by an employment activity. Dr. Do's June 25, 2002 report (Form CA-20) did not include either a date of injury or a history of injury. Because there was no reported history of injury and no explanation for why he believed the diagnosed condition to be employment related, Dr. Do's opinion on causal relationship cannot be considered rationalized. As such, it is insufficient to meet appellant's burden of proof.

The 2005 to 2006 VA medical records are similarly insufficient to meet appellant's burden of proof. Other than briefly noting that appellant's job duties included "repetitive motion with buffing floor [and] mop[p]ing," the treatment records do not include an opinion on causal relationship. Furthermore, appellant's claim form and his February 23, 2007 statement do not identify any particular floor care duties as the cause of his carpal tunnel syndrome. Based on the current record, the Office properly found that appellant did not demonstrate the presence of an employment-related medical condition.

CONCLUSION

Appellant has not established that he sustained an injury in the performance of duty.

³ 20 C.F.R. § 10.115(e), (f) (2007); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

⁴ *Victor J. Woodhams*, *supra* note 3.

ORDER

IT IS HEREBY ORDERED THAT the May 21, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 10, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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