

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

<p>R.C., Appellant</p> <p>and</p> <p>U.S. POSTAL SERVICE, POST OFFICE, Orangeburg, SC, Employer</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Docket No. 10-2342</p> <p>Issued: August 5, 2011</p>
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<p><i>Appearances:</i></p> <p><i>Alan J. Shapiro, Esq., for the appellant</i></p> <p><i>Office of Solicitor, for the Director</i></p>	<p><i>Case Submitted on the Record</i></p>
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DECISION AND ORDER

Before:
 RICHARD J. DASCHBACH, Chief Judge
 COLLEEN DUFFY KIKO, Judge
 MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On September 20, 2010 appellant filed a timely appeal from an August 23, 2010 merit decision of the Office of Workers’ Compensation Programs (OWCP). Pursuant to the Federal Employees’ Compensation Act (FECA)¹ and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On September 2, 2008 appellant, then a 49-year-old rural carrier, filed an occupational disease claim alleging that she sustained carpal tunnel syndrome due to years of repetitive motions with unnatural sitting and body positions. She stopped work on September 10, 2008. Appellant became aware of her condition and its relationship to her employment on

¹ 5 U.S.C. § 8101 *et seq.*

September 1, 2007.² In an accompanying September 2, 2008 statement, she remarked that repetitive motions weakened her arm and shoulder to the extent that she was unable to case mail on the top shelf and lift her arm for prolonged periods. Appellant asserted that her job duties subsequently aggravated her condition.

In a June 30, 2008 note from Dr. Matthew K. Nelson, an orthopedic surgeon, appellant complained of right wrist pain and tingling. On examination, appellant exhibited a positive Tinel's sign and Phalen's maneuver as well as right anterior shoulder tenderness to palpation. Dr. Nelson diagnosed right carpal tunnel syndrome. He reiterated his findings in a July 22, 2008 follow-up report, adding that appellant demonstrated a positive carpal compression sign and an electromyogram (EMG) was consistent with the diagnosis. In a September 8, 2008 duty status report, Dr. Nelson listed her date of injury as October 2007 and discharged her to modified duty on September 3, 2008.

OWCP informed appellant in a January 9, 2009 letter that the evidence of record was insufficient and advised her about the evidence required to establish her claim.

The employing establishment controverted the claim in an October 1, 2008 letter, arguing that the medical evidence did not show that appellant's condition was job related.

Appellant specified in a November 3, 2008 statement that she worked 40 hours each week for the employing establishment for approximately 20 years. Her job duties entailed repetitive movements such as casing letters, sorting parcels, loading mail tubs, sacks and trays into her postal vehicle, driving and distributing and retrieving mail with her right hand on the delivery route. Appellant reiterated that her condition was due to these tasks.³

In an October 27, 2008 report, Dr. Nelson noted that appellant experienced right shoulder pain radiating to her hand about six months after she underwent a right shoulder arthroscopy with rotator cuff repair and subacromial decompression. A physical examination and prior EMG study confirmed mild carpal tunnel syndrome. Dr. Nelson commented:

“In my years of practice, I have seen many patients who perform jobs that require them to do repetitive activities, especially activities requiring elevation of the arm. These patients develop conditions like those of [appellant], specifically ... carpal tunnel syndrome....”

By decision dated January 9, 2009, OWCP denied appellant's claim, finding the medical evidence insufficient to establish that her claimed condition was related to the accepted employment activity.

² In the original Form CA-2, appellant also alleged that she sustained an employment-related rotator cuff rupture, neck and shoulder pain, muscle and ligament weakness, nerve damage and numbness and tingling of the feet. She subsequently underwent a right shoulder arthroscopy on January 28, 2008 and returned to work on June 9, 2008. At a May 14, 2009 telephonic hearing, appellant's attorney clarified that the carpal tunnel condition was the focus of the present claim.

³ Appellant later detailed in a March 10, 2009 letter that she also performed heavy lifting and other strenuous physical activities on her route, which required frequent bending, stooping, twisting and reaching. She also pushed a mail cart and gurney.

Appellant requested a telephonic hearing, which was held on May 14, 2009. At the hearing, she testified that she received treatment between January 2001 and December 2007 for a right shoulder injury and recently underwent a carpal tunnel release on March 15, 2009. Appellant denied that she was involved in a previous traumatic event. She remained unemployed.

In an August 6, 2009 decision, OWCP's hearing representative affirmed the January 9, 2009 decision.

Appellant requested reconsideration on April 27, 2010. In an April 4, 2010 report, Dr. Martin D. Fritzhand, an occupational physician and Board-certified urologist, noted that she complained of right hand pain, numbness and tingling since September 25, 2007. Dr. Fritzhand obtained a history of injury from appellant by telephone call on April 1, 2010 and reviewed Dr. Nelson's reports, the report of Dr. Lucius Craig III, a Board-certified orthopedic surgeon and the 2008 EMG study. He did not conduct a physical examination. Dr. Fritzhand opined:

"There is certainly a distinct and unmistakable causal relationship between [appellant]'s work activities and duties for the [employing establishment] during her [21]-year career and the symptoms involving her right hand commencing 2 [to] 3 years ago which were eventually found to be carpal tunnel syndrome. [Appellant] used both hands constantly and repetitively during her workday. She was required to 'put the mail together -- case the mail,' lift and carry the mail (up to 70 pounds) and deliver the mail. [Appellant] performed these activities for more than 20 years. These activities are known to cause and worsen carpal tunnel syndrome. The cumulative trauma of her work activities precipitated the injury to the right median nerve requiring neurolysis in March 2009. Carpal tunnel syndrome is caused by pressure on the median nerve as it passes through the bony flexor compartment of the wrist. The work activities described above ultimately resulted in injury to the median nerve."

In an April 14, 2010 report, Dr. Craig noted treating appellant since December 4, 2007. He advised that she was diagnosed with right carpal tunnel syndrome based on the results of median nerve compression, Tinel's and Phalen's testing and a 2008 EMG study. Appellant underwent carpal tunnel surgery on March 15, 2009. Dr. Craig noted that she work at the employing establishment for about 20 years where she lifted objects weighing 70-plus pounds engaged in repetitive movements, such as driving, casing and delivering mail. He opined that heavy lifting and repetitive motions and constantly elevating her arm, for 20 years contributed to her condition.

On August 23, 2010 OWCP denied modification of the August 6, 2009 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period, that an injury was sustained in the performance of duty as alleged and that any disabilities and/or specific conditions for which compensation is claimed are causally related to

the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁶ To establish fact of injury in an occupational disease claim, an employee must submit: (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 claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁷

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background, 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 claimant.⁸

ANALYSIS

The evidence supports that appellant routinely cased, sorted, loaded, distributed and collected mail for approximately 20 years. The medical evidence of record established a diagnosis of right carpal tunnel syndrome. OWCP denied the occupational disease claim, finding the medical evidence insufficient to establish that the accepted employment activity caused the condition.

In an October 27, 2008 report, after conducting a physical examination and reviewing a prior EMG study, Dr. Nelson attributed appellant's carpal tunnel syndrome to repetitive job activities, "especially [those] requiring elevation of the arm." An April 14, 2010 report from Dr. Craig specified that routine heavy lifting, driving, casing and delivering mail and elevating of her arm for around 20 years contributed to her condition. Neither opinion, however, provided detailed medical rationale explaining the pathophysiological process by which appellant's employment duties caused her injury.⁹ Dr. Fritzhand's April 4, 2010 report reviewed Dr. Nelson's earlier record, but the record establishes that he did not conduct any physical examination of appellant. Moreover the Board notes that he is a Board-certified urologist, a field not generally affiliated with treatment of carpal tunnel. Dr. Fritzhand did not treat appellant or

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *See S.P.*, 59 ECAB 184, 188 (2007).

⁷ *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *see R.R.*, Docket No. 08-2010 (issued April 3, 2009).

⁸ *I.J.*, 59 ECAB 408 (2008); *Woodhams*, *supra* note 5.

⁹ *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994).

conduct a physical examination.¹⁰ The Board finds that the reports of Drs. Nelson, Fritzhand and Craig are not sufficient to meet appellant's burden of proof as they do not offer a sufficiently rationalized medical opinion based on a complete and accurate factual and medical background.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish her carpal tunnel syndrome as employment treated.

ORDER

IT IS HEREBY ORDERED THAT the August 23, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 5, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

¹⁰ See *Mark S. Rektor*, Docket No. 03-1409 (issued August 21, 2003) (finding a physician's medical report of diminished probative value as no physical examination was performed).