U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARILYN T. ROCKER and U.S. POSTAL SERVICE,
POST OFFICE, Houston, Tex.

Docket No. 96-1592; Submitted on the Record;
Issued May 13, 1998

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issues are: (1) whether appellant has established that she sustained a traumatic right hand injury in the performance of duty on June 21, 1995; and (2) whether appellant's right hand carpal tunnel syndrome is causally related to factors of her federal employment.

On June 21, 1995 appellant, then a 39-year-old letter sorting machine (LSM) clerk, filed a notice of traumatic injury alleging that on that date as she was keying the LSM and that her right hand swelled up. Appellant claimed that she had a fracture of her right hand and that two fingers might be broken. Appellant's supervisor noted that appellant could not tell him when, where or how her fingers were fractured, and he opined that it was unlikely this claimed traumatic injury occurred while keying. A physician with an illegible signature diagnosed "proximal phalanges," a general nonpathologic anatomical description for finger parts, ordered an x-ray, and splinted the fingers. The x-ray taken June 22, 1995 was read as showing no evidence of a fracture or subluxation, and no obvious tissue swelling was noted.

In support of her claim appellant submitted several pieces of paper from her emergency right hand evaluation which reported her claim and noted that she had no knowledge of trauma to the area.

By letter dated July 21, 1995, the Office of Workers' Compensation Programs advised appellant that the information submitted was insufficient, and it requested that she provide a further history of injury and treatment, including a physician's opinion on causal relation.

Appellant responded that as she was keying, her hand began to swell. She also submitted a July 21, 1995 report from Dr. Arnold Ravdel, an orthopedic surgeon, who noted that the compression test for carpal tunnel syndrome was positive on the right and he diagnosed carpal tunnel syndrome of the right hand. No opinion on causal relation was provided, but Dr. Ravdel did note that appellant had an accident on June 21, 1995. He did not, however, discuss how the

accident occurred, what the accident involved, or its results. A Texas workers' compensation form was also submitted.

By decision dated September 7, 1995, the Office rejected appellant's claim finding that the evidence of record failed to establish that an injury was sustained as alleged. The Office found that the evidence was insufficient to establish that a traumatic incident occurred as alleged, and that a medical injury or condition occurred as a result of the alleged incident.

On September 22, 1995 appellant requested reconsideration, and in support she submitted two copies of Dr. Ravdel's July 21, 1995 report and another copy of the Texas workers' compensation form.

By decision dated November 1, 1995, the Office denied modification of the prior decision finding that the evidence submitted was not sufficient to warrant modification. The Office noted that the evidence submitted was already part of the record, that Dr. Ravdel diagnosed carpal tunnel syndrome but did not indicate that the condition was employment related, and that Dr. Ravdel noted a vague history of injury indicating only that while at work appellant had pains in her right hand. No traumatic incident was identified.

On January 19, 1996 appellant, through her representative, requested reconsideration, and in support submitted further medical reports from Dr. Ravdel. Appellant submitted another copy of the July 21, 1995 report and a January 10, 1996 clinical statement which noted that appellant was last seen on July 21, 1995, that she was diagnosed as having carpal tunnel syndrome at that time, and that an electromyogram (EMG) was recommended to rule out carpal tunnel. The unsigned statement also noted: "It should be noted that she was working as a machine clerk … when accident occurred whilst at work. In the opinion of Dr. Ravdel, repetitive problems with the right wrist and hand during her work duties would be regarded as the approximate [sic] cause to carpal tunnel syndrome as well as the accident in question, being an aggravating or precipitating cause of her problem." No further details as to what the "accident in question" involved were provided, and no further explanation as to what "repetitive problems with the right wrist and hand" meant was included.

By decision dated March 6, 1996, the Office denied modification of the prior decision finding that the evidence submitted was not sufficient to warrant modification. The Office noted that the "accident" Dr. Ravdel alluded to was never described either by appellant or by Dr. Ravdel, that it was still not clear what appellant felt happened to her on June 21, 1995, and that any condition resulting from "repetitive problems with the right wrist and hand" was outside the scope of the instant traumatic injury claim.

The Board finds that appellant has failed to establish that she sustained a traumatic right hand injury in the performance of duty on June 21, 1995.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim.[2] When a claim for compensation is predicated upon a traumatic injury, the employee must establish the fact of injury by proof of an accident or fortuitous event having relative definiteness with respect to time, place and circumstances and having occurred in the performance of duty, and by proof that such accident or fortuitous event caused an "injury" as defined in the Act and its regulations.[3] First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.[4] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[5] In the instant case, appellant has failed to do this.

Appellant alleges that a traumatic injury occurred on June 21, 1995 but she did not identify a specific event, incident or accident having relative definiteness with respect to time, place and circumstances, as being the cause. These omissions diminish the probity of her allegations. She also offered no confirmation of her alleged injury, her supervisor controverted her claim, and the x-ray medical evidence submitted demonstrated that no traumatic finger fractures were present. These considerations further diminish the probity of appellant's claim. Appellant merely alleged that her hand swelled while she was keying the LSM machine, and claimed that she sustained finger fractures. The Board notes that neither the fact that a condition manifests itself during a period of employment, nor appellant's belief that the condition was caused or aggravated by employment conditions is sufficient to establish causal relationship.[6] In this case, appellant has failed to demonstrate that she sustained a specific traumatic injury, finger fractures, on June 21, 1995, causally related to identifiable factors of her federal employment.

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[1] 5 U.S.C. §§ 8101-8193.

[2] *See Margaret A. Donnelley*, 15 ECAB 40 (1963).

[3] *See Loretta Phillips*, 33 ECAB 1168, 1170 (1982); *Virgil M. Hilton*, 32 ECAB 447, 452 (1980); *Max Haber*, 19 ECAB 243, 247 (1967). Section 8101(1)(5) of 5 U.S.C. defines "injury" in relevant part as follows: "`injury' includes, in addition to injury by accident, a disease proximately caused by employment...." Section 10.5(a)(15) of 20 C.F.R. defines "traumatic injury" as follows: "[A] wound or other condition of the body caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. The injury must be caused by a specific event or incident or series of events or incidents within a single workday or work shift."

[4] *John J. Carlone*, 41 ECAB 354 (1989). To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his subsequent course of action. In determining whether a *prima facie* case has been established, such circumstances as late notification of injury, lack of confirmation of injury, and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on a claimant's statements. The employee has not met this burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim. *Carmen Dickerson*, 36 ECAB 409 (1985); *Joseph A. Fournier*, 35 ECAB 1175 (1984); *see also George W. Glavis*, 5 ECAB 363 (1953).

[5] *Id.* For a definition of the term "injury," see 20 C.F.R. §10.5(a)(14).

[6] *Judith A. Peot*, 46 ECAB 1036 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

Further, the Board finds that appellant has failed to establish that she developed carpal tunnel syndrome as a result of specific factors of her federal employment.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, 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 the specific 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 specific employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the specific employment factors identified by the claimant.[7] In the present case, appellant submitted medical evidence which contained the diagnosis "carpal tunnel syndrome," but which recommended an EMG to rule out carpal tunnel syndrome. Objective EMG test results demonstrating and confirming actual carpal tunnel syndrome were not submitted. This evidence does not, therefore, definitively establish that appellant actually had right carpal tunnel syndrome, and consequently does not meet the first requirement for establishing an occupational disease. Secondly, appellant failed to submit a statement identifying specific employment factors alleged to have caused her presumptive condition. The only statement appellant provided indicated merely that her right hand swelled while keying the LSM machine. This statement of general activity being performed when she noticed her swollen hand is insufficiently specific and inadequately detailed to meet the second requirement in establishing the occurrence of an occupational disease due to specifically identifiable factors of her federal employment. Thirdly, the medical evidence submitted does not address specific employment factors, but instead refers only to "repetitive problems with the right wrist and hand" during her work duties, without describing or explaining what "repetitive problems" refers to, (*i.e.,* reoccurring physical problems, repetitive specific exposures, repetitive identifiable injuries, repetitive use or overuse, repetitive difficulties encountered), and without discussing how appellant's wrist became involved in a claim initially made only for alleged traumatic finger injury. Further, the medical evidence omits any discussion of the pathophysiological mechanism involved, and attributes appellant's presumptive but objectively unconfirmed diagnosis of carpal tunnel syndrome both to the unspecified "repetitive problems" and to the June 21, 1995 "accident," which has not been proven by the record to have occurred. As the medical evidence is incomplete, unclear and unrationalized, it is of seriously diminished probative value, and as it attributes appellant's presumptive condition to two different categories of unarticulated and unproven things, one occupational in nature and the other traumatic in nature, (*i.e.,* "repetitive problems" and the "accident in question"), it does not support that the presumptive condition is an occupational disease which arose discretely as a result of exposure to specifically identifiable factors of appellant's employment over a period greater than one work shift. Although appellant claims that she sustained a traumatic injury on June 21, 1995, she has failed to prove such an allegation, and although appellant's representative urges that the record supports that appellant developed an occupational disease, medical evidence of record attributes appellant's presumptive condition to more than one cause, including a cause not factually supported by the evidence of record as having occurred.

[7] *Ruby I. Fish, supra* note 6.

Consequently, appellant has failed to establish either a traumatic injury claim or an occupational disease claim.

Accordingly, the decisions of the Office of Workers' Compensation Programs dated March 6, 1996, November 1, 1995 and September 7, 1995 are hereby affirmed.

Dated, Washington, D.C.
May 13, 1998

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member