

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELLEN T. VELA and U.S. POSTAL SERVICE,
POST OFFICE, Long Beach, Calif.

*Docket No. 97-1554; Submitted on the Record;
Issued June 23, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish that her carpal tunnel syndrome and nerve entrapment are causally related to factors of her federal employment.

On August 12, 1995 appellant, then a 35-year-old letter carrier, filed an occupational claim, Form CA-2, alleging that she developed left carpal tunnel syndrome and right ulnar nerve entrapment.¹ Appellant's job duties involved sorting mail from trays and hampers, removing the mail from cases and placing it into trays, and folding, loading and unloading the hamper. Appellant stopped working on December 1, 1993.

In a report dated March 9, 1994, Dr. Gerald W. Swanson, an orthopedic surgeon with a specialty in emergency medicine, performed a physical examination and diagnosed probable bilateral extensor tenosynovitis in the hands and wrists which did not appear to be an industrially-related problem.

In a report dated March 6, 1995, Dr. Brian L. Gwartz, a Board-certified anesthesiologist with a specialty in pulmonary diseases, considered appellant's history of injury, performed a physical examination, and opined that appellant had complaints of pain with no objective findings and could return to work without restrictions.

In a report dated August 29, 1995, Dr. Jacob E. Tauber, a Board-certified orthopedic surgeon and appellant's treating physician, who first treated appellant on May 15, 1995 opined that appellant had carpal tunnel syndrome and ulnar nerve entrapments resulting from her work

¹ Appellant had previously filed claims for back injuries she sustained at work, Nos. 90650, 13-1086154 and 90650, 13-896769, and a determination was made that there were not objective residuals of appellant's back injuries by March 6, 1995.

activities.² Dr. Tauber stated that appellant was performing repetitive motion activities in the course of her employment and “these are known to cause peripheral nerve entrapments.” He stated that it may take years for the symptoms of carpal tunnel syndrome and ulnar nerve entrapment to develop as a result of repetitive motion activities and it may take years to identify the symptoms on the appropriate diagnostic testing which is electromyography and nerve conduction studies.

By decision dated November 30, 1995, the Office denied the claim, stating that the evidence of record failed to establish that the claimed conditions of carpal tunnel syndrome and ulnar nerve entrapment were due to appellant’s work activities which ceased on December 1, 1993.

By letter dated January 22, 1996, appellant requested reconsideration of the Office’s decision and submitted three reports from Dr. Tauber dated November 10, 1995, January 5 and February 6, 1996 although the Office claimed it only received Dr. Tauber’s February 6, 1996 report. In his February 6, 1996 report, Dr. Tauber opined that appellant had numbness and tingling in her left hand and was temporarily totally disabled.

By decision dated March 1, 1996, the Office denied appellant’s reconsideration request.

By letter dated March 6, 1996, appellant requested reconsideration of the Office’s decision and submitted two reports by Dr. Tauber dated November 10, 1995 and January 5, 1996. In his November 10, 1995 report, Dr. Tauber reiterated that appellant’s carpal tunnel syndrome was directly attributable to the appellant’s work activities which involved repetitive motion, and repetitive motion activities “are known” to cause carpal tunnel syndrome and nerve entrapment which appellant had. He stated that her history “is a classic one that does produce peripheral nerve entrapments” and, in fact, appellant had peripheral nerve entrapments in both upper extremities.

In his January 5, 1996 report, Dr. Tauber opined that appellant had electrically confirmed carpal tunnel syndrome in the left hand, electrically confirmed cervical radiculitis and a right ulnar nerve entrapment at the elbow or cubital tunnel syndrome. He stated:

“It should be noted that repetitive motion activities are a known cause of peripheral nerve entrapments, *i.e.*, carpal tunnel syndrome. Clearly, these are not as a result of the aging process.... The patient, in the course of her employment, would perform standing, filing and casing mail. She also had carried mail. Clearly, the carpal tunnel syndromes in this patient are related to the repetitive motion activities.”

² In her brief on appeal and the Office, in its May 7, 1996 decision, refer to Dr. Tauber’s June 5, 1995 report. This report is not in the record. However, from the Office’s and appellant’s statement as to the contents of the report, *i.e.*, that appellant’s carpal tunnel syndrome and nerve entrapment were caused by her federal employment, its absence from the record is harmless in that Dr. Tauber’s other reports contain the same opinion.

By decision dated May 7, 1996, the Office denied appellant's reconsideration request.³

By letter dated September 26, 1996, appellant requested reconsideration of the Office's decision, and submitted five statements, one by appellant and four by witnesses dated either September 15 or September 23, 1996. Appellant stated that the pain in her arms began at work in 1992 and she had difficulty taking care of her four children ranging in ages from 3 to 11. The other statements are by appellant's neighbor, aunt, mother and sister, respectively, and establish that they assisted appellant with her domestic chores as in cleaning and doing laundry or with taking care of the children due to her problems with her arms. Her mother stated that appellant's elbow, hand and wrist problems began in 1991.

By decision dated December 12, 1996, the Office denied appellant's reconsideration request.

The Board finds that that the case is not in posture for decision.

To establish that an injury was sustained in the performance of duty, an appellant must submit the following: (1) medical evidence establishing the presence or existence of the condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and (3) medical evidence establishing that the 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 employment factors identified by claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the appellant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 appellant.⁴

In the present case, Dr. Tauber provided reports dated August 29 and November 10, 1995, and January 5, 1996. In his August 29, 1995 report, Dr. Tauber opined that appellant had carpal tunnel syndrome and ulnar nerve entrapment resulting from her work activities. He stated that appellant was performing repetitive motion activities in the course of her employment which "are known" to cause peripheral nerve entrapments. In his November 10, 1995 report, Dr. Tauber reiterated that appellant's carpal tunnel syndrome was directly attributable to appellant's work activities which involved repetitive motion and that repetitive motion activities "are known" to cause carpal tunnel syndrome and nerve entrapment which appellant had. In his January 5, 1996 report, Dr. Tauber opined that appellant had electrically confirmed carpal tunnel

³ By letter dated May 29, 1996, appellant requested an oral hearing before an Office hearing representative which was denied on July 15, 1996. By letter dated June 5, 1996, appellant conceded that she erroneously requested a hearing. It therefore is not necessary to review the July 15, 1996 hearing denial.

⁴ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

syndrome in the left hand, electrically confirmed cervical radiculitis and a right ulnar nerve entrapment at the elbow or cubital tunnel syndrome. He reiterated that repetitive motion activities are a known cause of peripheral nerve entrapments or carpal tunnel syndrome and stated that they are not the result of the aging process. Dr. Tauber noted that appellant, in the course of her employment, would perform standing, filing, casing and carrying mail. He stated that appellant's carpal tunnel syndrome was related to the repetitive motion activities at work.

Dr. Tauber has related appellant's carpal tunnel syndrome to the repetitive motion activities she performed at work. The Board finds that this evidence is sufficient to require further development of the claim. On return of the case record, the Office should further develop the claim as appropriate and thereafter issue a *de novo* decision.

The decisions of the Office of Workers' Compensation Programs dated December 12 and May 7, 1996 are set aside and the case remanded for further action in conformance with this decision.

Dated, Washington, D.C.

June 23, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member