

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHAEL DEGEN and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Fort Myers, FL

*Docket No. 00-1907; Submitted on the Record;
Issued April 20, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met his burden of proof to establish that the arthritis in his hands was causally related to factors of his federal employment.

On September 9, 1999 appellant, then a 50-year-old mail clerk, filed a notice of occupational disease alleging that the tasks he performed at work caused the arthritis in his hands. He submitted a note from Dr. Mary Charlton indicating that he was treated for pain in his thumbs but providing no diagnosis.

By letter dated September 28, 1999, the Office of Workers' Compensation Programs requested that appellant submit additional medical and factual information to support his claim.

On October 14, 1999 appellant submitted a description of the work factors he believed to have caused his condition: progress notes from Drs. Charles A. Bevis and Ronald D. Gardner, both Board-certified orthopedic surgeons; and a statement from his employer challenging his claim.

Dr. Bevis treated appellant on April 20 and July 17, 1998 and between June 28 and September 13, 1999 for pain at the base of his thumbs. On June 28, 1999 Dr. Gardner diagnosed appellant with "bilateral, right worse than left, basilar thumb arthritis." On September 13, 1999 he indicated:

"[Appellant] brought up the question as to whether this might be work related and he gave me a written job description, which we retained for the chart and it shows that he uses a stapler frequently and files as many as 200 charts a day, but he emphasizes that the charts are relatively large and they are stuffed in fairly tight. It sounds as though he does use his hands quite a bit, but probably no more than strenuous activities of daily living with someone that would be working around their house. I explained to [appellant] that we commonly see basilar thumb arthritis that is work related in heavy manual laborers, but that is not to say that

his particular type of work and the angles of motion do not cause some wear and tear changes here as well.”

By decision dated January 31, 2000, the Office denied appellant’s claim on the grounds that the evidence was not sufficient to establish fact of injury.

By letter dated February 9, 2000, appellant requested reconsideration and submitted a personal statement detailing his employment history and treatment by Dr. Gardner. No new medical evidence was submitted.¹

In a merit decision dated February 24, 2000, the Office found the evidence of record sufficient to establish that the work factors occurred as alleged, but denied modification of its prior decision because the evidence did not provide a diagnosis causally related to factors of federal employment.

The Board finds that appellant has not met his burden of proof to establish that the arthritis in his hands was causally related to factors of his federal employment.

An employee seeking benefits under the Federal Employees’ Compensation Act² 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (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 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 the claimant.⁵

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a

¹ The record contains no medical evidence from Dr. Ronaldo S. Carneiro, who operated on appellant’s left hand on November 17, 1999.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁵ *Vicky L. Hannis*, 48 ECAB 538 (1997).

physician's rationalized 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 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 claimant.⁶

Dr. Bevis indicated that appellant has "arthritis in his hands," but did not provide an opinion as to the cause of appellant's condition. While Dr. Gardner did address causal relationship, he did not provide a definite, well-rationalized explanation of the cause of appellant's condition. Dr. Gardner indicated that appellant uses his hands quite a bit but stated that the amount of use is "probably no more than someone performing strenuous daily activities around the house." While he noted, "that is not to say that his particular type of work and the angles of motion do not cause some wear and tear changes," Dr. Gardner never explained how appellant's work or specific employment factors would have caused or aggravated appellant's diagnosed arthritic condition. His opinion is ambiguous at best.

As appellant did not submit any rationalized medical opinion evidence causally relating his diagnosed arthritic conditions to work factors, he did not meet his burden of proof.

The February 24 and January 31, 2000 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
April 20, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁶ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).