

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NANCY CHAPARRO and DEPARTMENT OF LABOR, OCCUPATIONAL
SAFETY & HEALTH ADMINISTRATION, Bridgeport, CT

*Docket No. 02-1937; Submitted on the Record;
Issued March 14, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issues are: (1) whether appellant developed carpal tunnel syndrome as a result of her federal employment; and (2) whether the Office of Workers' Compensation Programs properly denied appellant's request for reconsideration.

On March 26, 2001 appellant, then a 32-year-old program assistant, filed a notice of traumatic injury alleging that on March 20, 2001 while pulling out files for archiving, she grabbed a box full of files and the box slipped and she strained her left hand. She also indicated "left hand wrist, experiencing numbness on and loss of strength." Appellant submitted a May 8, 2001 report from Dr. Srinath Kadimi, a Board-certified psychiatrist and neurologist, who stated that appellant sustained an injury at work on March 20, 2001 when a box fell on her left wrist. Dr. Kadimi noted that following the injury appellant started to complain of pain in the wrist area that traveled up to her elbow and also had numbness in her fingers, mostly in the thumb and index finger. He also noted that appellant had the same symptoms on the right side. Dr. Kadimi stated: "Her clinical history is suggestive of carpal tunnel syndrome. The other possibility is tenosynovitis. Certainly, with her line of work and with her repetitive wrist movements, she is at a higher risk for developing carpal tunnel syndrome. It is possible that her wrist injury has precipitated the onset." In a follow-up visit on June 14, 2001, appellant's primary care physician, Dr. Das,¹ diagnosed carpal tunnel syndrome. In a report dated June 15, 2001, Dr. Kadimi noted that appellant continued to complain of numbness and tingling in both hands, more so on the left side. He also noted that appellant was pregnant and was due in January 2002. An electrodiagnostic study performed on June 6, 2001 showed a mild median mononeuropathy at the left wrist as seen in carpal tunnel syndrome. The right side was normal.

The employing establishment agreed with appellant's allegations.

By decision dated October 12, 2001, the Office denied appellant's claim as the medical evidence was insufficient to establish that appellant's condition was caused by employment factors.

¹ The Board is unable to determine Dr. Das's full name and whether he is Board-certified.

Appellant did not agree with the Office's decision and by letter dated October 19, 2001 requested reconsideration and submitted an October 18, 2001 report from Dr. Kadimi. Dr. Kadimi mentioned that appellant had complaints of numbness in her fingers prior to the March 20, 2001 incident. He stated:

“Clinically she has carpal tunnel syndrome on either side, worse on the left side. Her work involves repetitive movements of the wrists (typing and filing) which is known to be a risk factor for developing carpal tunnel syndrome. Usually the symptoms of carpal tunnel syndrome are seen on the right side in right-handed persons. [Appellant] states that her symptoms are worse on the left side and it is medically probable that her injury at work has exacerbated her symptoms.”

By decision dated November 15, 2001, the Office denied modification of the previous decision, finding that the medical evidence submitted was insufficient to establish the existence of carpal tunnel syndrome from the traumatic incident on March 20, 2001.

Appellant disagreed with the Office's decision and by letter dated November 27, 2001 requested reconsideration. She did not submit new evidence but addressed some of the Office's questions and concerns regarding her claim. Appellant noted that the correct date of filing the CA-1 form was March 20, 2001 not March 26, 2001. She also disagreed with the Office's assessment that her pregnancy was the cause of her carpal tunnel syndrome because the incident occurred before her pregnancy. Appellant also stated that she did not seek treatment immediately following the incident because she thought she merely sprained her wrist and was unaware of carpal tunnel syndrome at that time. Finally, she noted that she experienced minor pain in her wrist and hands prior to the incident.

By decision dated June 21, 2002, the Office denied appellant's request for reconsideration, finding that appellant neither raised substantive legal questions nor included new and relevant evidence to warrant merit review.

The Board finds that the case is not in posture for decision and requires further development by the Office.

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

In the present case, the claims examiner questioned whether the injury occurred at the time, place and in the manner alleged. He noted that appellant claimed on her CA-1 form that a

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).

box slipped and she strained her left wrist, whereas Dr. Kadimi stated in his October 18, 2001 report that a box fell on appellant's left wrist. The Board finds that this discrepancy is negligible and insufficient to deny appellant's claim. The claims examiner also noted that Dr. Kadimi indicated that appellant complained of numbness in her fingers prior to the incident, but subsequently stated that appellant was exposed to risk factors involving repetitive typing and filing. The Board notes that appellant's condition may have preceded the March 20, 2001 incident and that the repetitive hand motions involved in her job may have also played a role in the development of her condition.

The Board has found that an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.⁵ In this case, there is no evidence to refute appellant's contention that the injury occurred on March 20, 2001, as alleged.

The Board finds that there is sufficient medical evidence in the case record which lends support appellant's claim. Dr. Kadimi's May 8 and October 18, 2001 reports and the electrodiagnostic test performed on June 6, 2001 confirm the presence of carpal tunnel syndrome on the left side.⁶ Although the medical evidence submitted by appellant is insufficient to meet appellant's burden of proof, it does raise an uncontroverted inference of causal relationship between appellant's condition and her employment.⁷

In his report dated May 8, 2001, Dr. Kadimi stated that, immediately after the incident, appellant started to complain of pain in her wrist up to the elbow, with numbness in her fingers, suggesting a direct correlation between the work incident and appellant's condition. He also stated that appellant's line of work, which involved repetitive wrist movements, put her at a higher risk for developing carpal tunnel syndrome. In his report dated October 18, 2001, Dr. Kadimi again discussed the incident and stated that, since March 20, 2001, appellant had increasing pain and numbness in her hand. He noted in a follow-up visit on June 14, 2001, that appellant was on vacation at that time and was not using her hands. Appellant stated that she felt much better, suggesting that her employment duties may have been aggravating her condition. The Board notes that the medical opinion of record is not consistent as to whether a traumatic event or multiple traumas caused appellant's condition, yet the evidence suggests that appellant's employment is related to her condition. In the case of *Conrad G. Barnes*,⁸ the employee's physician stated that his condition was due to a traumatic injury, yet the majority of the medical evidence indicated that the employee's condition was degenerative in nature that developed over a period of time. The Board remanded the case to the Office to determine whether the work-related injury was traumatic or occupational in nature.

⁵ *Doyle W. Ricketts*, 48 ECAB 167 (1996).

⁶ *Horace Langhorne*, 29 ECAB 820 (1978).

⁷ *Rebel L. Contrell*, 44 ECAB 660 (1993).

⁸ *Conrad G. Barnes*, Docket No. 00-624 (issued January 26, 2001).

It is well established that proceedings under the Act⁹ are not adversarial in nature¹⁰ and while the claimant has the burden to establish entitlement to compensation the Office shares responsibility in the development of the evidence.¹¹ The Office has an obligation to see that justice is done.¹²

Even though Dr. Kadimi's reports discuss appellant's employment duties and combined with the electrodiagnostic study evidencing carpal tunnel syndrome, raise an inference of causal relationship. The Board notes that there is no evidence of record to suggest that appellant's condition may have been caused by activity outside of work, such as a hobby or housework that involved repetitive hand movements. The employing establishment also agreed with appellant's allegations and did not controvert her claim.

On remand, the Office should send the case record to Dr. Kadimi with a request to provide a rationalized opinion on the issue of whether appellant's condition was caused by employment factors, whether the incident was traumatic or is occupational in nature, and whether the carpal tunnel syndrome is bilateral or in the left hand only. The Office should then issue a *de novo* decision. As the case is being remanded for further development, the Board need not address the issue of whether the Office properly denied appellant's request for reconsideration on June 21, 2002.

The decisions of the Office of Workers' Compensation Programs dated November 15 and October 12, 2001 are hereby set aside and the case is remanded to the Office for further proceedings consistent with this decision.

Dated, Washington, DC
March 14, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁹ 5 U.S.C. §§ 8101-8193.

¹⁰ *Walter A. Fundinger, Jr.*, 37 ECAB 200, 204 (1985).

¹¹ *John J. Carlone*, 41 ECAB 354 (1989).

¹² *Id.*