

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LUCY SHAVERS and U.S. POSTAL SERVICE,
POST OFFICE, Chicago, IL

*Docket No. 03-498; Submitted on the Record;
Issued May 23, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant met her burden of proof to establish that she sustained an injury causally related to factors of employment.

On January 20, 2000 appellant, then a 36-year-old mail processor/clerk, filed an occupational disease claim alleging that factors of employment caused carpal tunnel syndrome. In support of her claim, she submitted medical evidence and a personal statement, in which she advised that on November 11, 1999 she began experiencing wrist pain when she had to unsleeve mail.

By letter dated February 1, 2000, the Office of Workers' Compensation Programs informed appellant that the evidence submitted was insufficient to establish her claim and advised her of the type of evidence she needed to provide in support of entitlement. In a second letter dated February 1, 2000, the Office requested that the employing establishment provide information regarding appellant's claim, to include a job description.

In a February 17, 2000 statement, Oriana Northrip, supervisor of distribution operations, advised that on November 11, 1999 Ms. Northrip instructed appellant to load and unsleeve mail. She stated that appellant later told her that her arm hurt when she unsleeved mail and that she wanted to fill out a CA-1 claim form for a traumatic injury.¹ Ms. Northrip also described appellant's job duties and submitted a job description.²

¹ The record does not indicate that a CA-1 claim form was submitted.

² The job description for mail processor indicates that duties and responsibilities are: (1) start and stop the equipment; (2) cull out nonprocessable items; (3) load mail on the transport unit for induction into the distribution system; (4) clear jams not requiring use of hand tools; (5) sweep mail from bins, separations or run outs; rubber band or tie as necessary; place mail into the trays, carts, racks, pouches, etc.; (6) notify supervisor or maintenance when malfunctions occur; and (7) perform other job-related tasks in support of primary duties. The employing establishment further submitted a copy of a seven-day suspension dated December 12, 1999.

Appellant submitted an undated statement that was stamped-received by the Office on February 28, 2000, in which she described her job duties since beginning work at the employing establishment and stated that her job duties caused arm pain.

By decision dated April 18, 2000, the Office denied the claim, finding the evidence submitted insufficient to establish that appellant sustained an employment-related injury. On May 12, 2000 appellant requested a hearing and submitted additional medical evidence. In a letter postmarked March 18, 2000, she filed an application for review with the Board.³

In a decision dated May 12, 2000, the Office again denied the claim on the grounds that the evidence submitted was insufficient to establish that appellant sustained an injury causally related to employment.

On November 7, 2000 the Director of the Office filed a motion to dismiss the appeal with the Board. The Director noted that, as appellant had timely requested a hearing before an Office hearing representative, the appeal should be dismissed and the case record returned to the Office. In an order dated December 26, 2000, the Board noted that the Board and the Office may not exercise concurrent jurisdiction over the same issue, granted the Director's motion and dismissed the appeal.

A hearing was held on June 24, 2002, at which time appellant testified that she first noticed that her arm hurt in November 1999, that she had been terminated by the employing establishment in August 2000⁴ and that she was initially diagnosed with carpal tunnel syndrome but that the diagnosis was changed to tendinitis. She described her job duties and indicated that her condition was now bilateral. The hearing representative described the type of evidence needed to support the claim and granted appellant 30 days, in which to submit additional evidence. After the hearing, appellant submitted two additional medical reports.

By decision dated September 17, 2002, an Office hearing representative affirmed the prior decision, finding the medical evidence insufficient to establish a causal relationship between the claimed condition and employment activities. The instant appeal follows.

The Board finds that appellant did not establish entitlement to an occupational disease claim.

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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion must be one of reasonable medical certainty and must be supported by

³ The appeal was docketed as No. 00-2091.

⁴ It is unclear from the record whether appellant was terminated or voluntarily resigned.

medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁶ Rationalized medical evidence is medical evidence, which includes a physician's rationalized medical 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.⁷ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁸

The medical evidence in the instant case includes a report dated November 27, 1999, in which Dr. William Clapp, a Board-certified internist, advised that appellant "appears to have sustained a repetitive motion injury to the right wrist ... and has apparently been unable to work since November 18 due to pain." Dr. Clapp concluded that appellant could return to work that evening on light duty for an indeterminate duration with a lifting restricting of five pounds with her right arm and no repetitive tasks with her right hand.

In a January 4, 2000 report, Dr. David Buchanan⁹ advised that appellant had been seen on November 27, 1999 and January 4, 2000, with complaints of pain and swelling in her right wrist and numbness and tingling in the fingers of her right hand. Examination revealed swelling and pain with movement of the right wrist. Tinel's sign was equivocal. Dr. Buchanan further stated:

"[Appellant] reports that her job is to run a machine that involves repetitive movement of her right wrist and hand. Her complaints are consistent with a repetitive motion injury. Therefore, I conclude that her complaints are related to her work activities."

The physician advised that appellant should work light duty for three months with a five-pound lifting restriction and no repetitive tasks with her right hand.

By report dated March 22, 2000, Dr. Albert E. Rodriguez, an orthopedist, stated that appellant reported a history that she was doing repetitive work at the employing establishment and injured herself on November 11, 1999. Dr. Rodriguez noted her complaints of subjective

⁵ *Solomon Polen*, 51 ECAB 341 (2000).

⁶ *Elizabeth Stanislav*, 49 ECAB 540 (1998).

⁷ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

⁹ Dr. Buchanan's credentials are unknown.

pain and numbness in her hands bilaterally with the right worse than the left. Examination of the upper extremities revealed no atrophy or swelling with some tenderness over the median nerve on the right wrist and over the snuff box on the right with positive Tinel's and Phelan's on the right. Biceps, brachioradialis and triceps reflexes were normal bilaterally. He diagnosed, *inter alia*, right carpal tunnel syndrome and right de Quervain's.

An x-ray of the right wrist on March 24, 2000 was read as negative for recent fractures or osseous pathologies with a posterior dislocation of the distal ulnar bone in relation to the wrist joints. Nerve conduction velocity (NCV) testing was done by Dr. Rodriguez on March 27, 2000. Motor testing revealed abnormal findings of the left median nerve at the elbow and right and left ulnar nerve at the wrist, which the physician advised were indicative of nerve entrapment at the cervical vertebral levels. Sensory testing revealed abnormal values of the left median nerve at the wrist and elbow and left ulnar nerve at the elbow. He again advised that these were indicative of nerve entrapment at the cervical vertebral levels.

In a report dated April 12, 2000, Dr. Rodriguez stated that appellant now had complaints of some pain in the left wrist also. Examination findings included tenderness over the left median nerve at the wrist. He diagnosed carpal tunnel syndrome, right greater than left. In a disability slip that same date, the physician advised that appellant could not work from April 12 to 24, 2000, due to bilateral carpal tunnel syndrome. By report dated June 7, 2000, the physician stated that appellant reported that her right wrist felt better. Examination revealed good range of motion of the right wrist with no tenderness. He noted a ganglion over the dorsum of the left wrist, diagnosed right carpal tunnel syndrome, improved and concluded that she could return to work.

Dr. Buchanan submitted a report dated July 16, 2002, in which he advised that he had last seen appellant on January 4, 2000. By report dated July 22, 2002, Dr. Sandra L. Hoogland, a Board-certified family practitioner, advised that appellant had "suffered from tendinitis of both wrists since 1998, due to repetitive motion injury sustained during her work sorting at the [employing establishment]." The physician further noted that appellant had suffered from low back pain since early in 2000 and had undergone both physical therapy and occupational therapy in 2001. Regarding her hands, the physician stated that appellant was limited in what she could do due to pain from the tendinitis, concluding "her difficulties have been continuous since the initial problems reported in 1998 and continue to be due to the tendinitis as a result of repetitive motion injury at work."

The Board finds that the record in the instant case does not contain rationalized medical evidence that relates appellant's bilateral upper extremity condition to employment factors. The Board initially notes that none of the medical reports contains specific familiarity with appellant's specific job duties. The March 24, 2000 x-ray contained findings of a posterior dislocation of the distal ulnar bone in relation to the wrist joints and the March 27, 2000 NCV testing was interpreted as showing nerve entrapment at the cervical vertebral levels on both sensory and motor testing. None of the medical opinions, however, explained these findings and their contribution to appellant's condition. Dr. Rodriguez diagnosed bilateral carpal tunnel syndrome in 2000 and in 2002, Dr. Hoogland diagnosed bilateral tendinitis that began in 1998.

Because of these inconsistencies, the Board finds that appellant did not establish that she sustained an employment-related injury.¹⁰

The September 17, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 23, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

¹⁰ The Board notes that appellant retains the right to obtain a review of the merits of her claim by showing that the Office erroneously applied or interpreted a point of law, advancing a relevant legal argument not previously considered by the Office, or constituting relevant and pertinent new evidence not previously considered by the Office. 20 C.F.R. § 10.606(b); *Arlesa Gibbs*, 53 ECAB ____ (Docket No. 01-113, issued November 2, 2001).