

**United States Department of Labor
Employees' Compensation Appeals Board**

PAUL S. WAGNER, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Columbus, OH, Employer**

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**Docket No. 05-907
Issued: August 16, 2005**

Appearances:
Paul S. Wagner, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 9, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' decision dated February 9, 2005 finding that he failed to establish that he sustained an injury as alleged. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty.

FACTUAL HISTORY

On October 26, 2004 appellant, then a 49-year-old mail handler, filed an occupational disease claim alleging that he sustained bilateral wrist sprain and carpal tunnel syndrome while lifting heavy letter trays and tubs in the performance of duty. He first became aware of the

condition and its relation to his work on October 24, 2003.¹ Appellant stopped work on October 24, 2003 and returned on November 3, 2003.

By letters dated November 22, 2004, the Office requested additional factual and medical evidence. The Office requested clarification from appellant with regard to whether his claim was for an injury that occurred on one day or developed over time. Appellant was requested to describe what work factors caused his injuries and to submit a physician's opinion, supported by a medical explanation, as to how his employment caused or aggravated the claimed condition. The Office explained that the physician's opinion was crucial to his claim and allotted 30 days to submit the requested information.

On January 26, 2004 the Office received an undated response in which appellant indicated that he originally had a bilateral wrist strain on October 24, 2003. Appellant alleged that the repetitive motion of working on the machines and lifting heavy letter trays and mail tubs caused his right and left hand conditions. He specifically noted that when he was permanently assigned to working on the linear integrated parcel sorter (LIPS) machine and not rotated, his conditions developed.

Appellant also submitted several reports from his treating physician, Dr. Charles D. Kerr, a Board-certified hand surgeon and osteopath. In a July 14, 2004 report, Dr. Kerr opined that appellant likely had bilateral carpal tunnel syndrome and possible cubital tunnel syndrome. In an August 27, 2004 operative report, Dr. Kerr performed right carpal release surgery and noted appellant's status in subsequent treatment notes. In an October 6, 2004 report, Dr. Kerr noted seeing appellant postoperatively for his right carpal tunnel release and that appellant wished to proceed with a left carpal tunnel release.

In an attending physician's report dated March 20, 2004, Dr. Steve Locsey, a Board-certified internist, advised that appellant was partially disabled from March 2 to 11, 2004.

The Office also received a return to work slip dated October 27, 2003 from a provider whose signature was illegible, which contained a diagnosis of right wrist strain and included restrictions of appellant being "unable to work in past two days," an electromyography (EMG) report dated April 2, 2004, a work history report from appellant, correspondence from the employing establishment dated August 30, October 2 and November 30, 2004 regarding appellant's attendance, and a duty status report from a provider whose signature was illegible which prescribed work restrictions for appellant.

In a return to work certificate dated September 7, 2004, Dr. Kerr indicated that appellant had right carpal tunnel release surgery on August 24, 2004 and was awaiting authorization for his left carpal tunnel release surgery.

¹ On the claim form, appellant indicated that a CA-1 had previously been filed. The record reflects that the Office, in another claim file not presently before the Board, accepted appellant's claim for wrist strain on October 24, 2003 in File No. 092039433.

By decision dated February 9, 2005, the Office denied appellant's claim. The Office found that the evidence supported that the claimed employment exposure occurred; however, appellant failed to submit sufficient medical evidence in support of his claim.

LEGAL PRECEDENT

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 and every 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. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion 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 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.⁵

ANALYSIS

Appellant has established that he performed repetitive duties of working on the LIPS machine and lifting heavy letter trays and mail tubs during the course of his employment as a mail handler. The issue, therefore, is whether the medical evidence establishes that these employment activities caused or contributed to any diagnosed condition. Appellant has submitted insufficient medical evidence to establish that his right and left wrist conditions were

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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

⁵ *Id.*

caused or aggravated by lifting heavy letter trays and mail tubs during the course of his employment.

Appellant submitted medical records that indicated he was treated for right wrist strain and a carpal tunnel release. However, there is no discussion in the reports explaining how factors of appellant's employment, such as lifting heavy trays and tubs, caused or contributed to his right and left wrist conditions or aggravated any preexisting medical condition. The record contains no rationalized medical opinion explaining how the implicated employment factors caused appellant's right and left hand conditions.

Dr. Kerr's reports, dating from July 14 to November 10, 2004, concerned a right carpal tunnel release and postoperative treatment. Dr. Locsey advised that appellant was partially disabled from March 2 to 11, 2004. However, none of these reports contained any opinion on the causal relationship of the diagnosed condition to the work duties appellant performed.⁶

Appellant also submitted several diagnostic reports and disability certificates. However, these reports do not contain any opinion on causal relationship. Therefore, they are of no probative value in establishing causal relationship.⁷

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁸ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is no probative, rationalized medical evidence addressing how appellant's claimed right and left wrist conditions were caused or aggravated by his employment, appellant has not met his burden of proof in establishing that he sustained an occupational disease in the performance of duty causally related to factors of employment.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.¹⁰

⁶ See *Michael E. Smith*, 50 ECAB 313 (1999).

⁷ *Id.*

⁸ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁹ *Id.*

¹⁰ The Board notes that appellant submitted additional evidence to support his claim. The Board's jurisdiction, however, is limited to reviewing the evidence that was before the Office at the time of its final decision. The Board therefore has no jurisdiction to review any evidence submitted to the record after the Office's February 9, 2005 decision. 5 U.S.C. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 9, 2005 is affirmed.

Issued: August 16, 2005
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board