



specialist, indicate that appellant reported “some tingling and prickly sensation in ... [his] fingers at work” and that “he was loading some boxes earlier, but otherwise does not recall any type of injury.”

In progress notes dated May 16, 2007, Dr. Branislav Behan, Board-certified in orthopedic surgery, found that appellant “apparently spends most of his day sorting mail” and “over the past [one and a half] months he has developed numbness.” He further observed signs and symptoms consistent with left cubital tunnel syndrome. On May 30, 2007 Dr. Behan confirmed his diagnosis of cubital tunnel syndrome based on a May 17, 2007 electromyography study conducted by Dr. Gregory J. Dardas, Board-certified in neurology.

In a letter dated July 31, 2007, the Office requested that appellant provide additional information, including medical evidence relating his left hand condition with his work duties. It also sought clarification on whether appellant was claiming injury due to a traumatic accident or occupational disease.

Responding to the Office’s July 31, 2007 letter, appellant submitted two reports from Bangor Medical Center dated March 8 and May 2, 2007. Both contain illegible signatures.

In a September 5, 2007 decision, the Office denied appellant’s claim finding that he did not submit sufficient medical evidence to establish that his left hand condition was caused by the accepted employment incident.

On September 28, 2007 appellant filed a request for an oral hearing, which took place on February 5, 2008. During the hearing, attended by appellant’s representative, appellant was questioned as to whether he intended to file a claim for an occupational injury or traumatic incident. No additional evidence was submitted in clarification of these questions.

On March 27, 2008 the hearing representative affirmed the Office’s September 28, 2007 decision denying appellant’s claim for a traumatic injury. The hearing representative found that the submitted medical evidence did not establish a causal relationship between his left hand condition and picking up mail on March 7, 2007.

### **LEGAL PRECEDENT**

An employee seeking compensation under the Federal Employees’ Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence,<sup>2</sup> including that he is an “employee” within the meaning of

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *J.P.*, 59 ECAB \_\_\_ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

the Act<sup>3</sup> and that he filed his claim within the applicable time limitation.<sup>4</sup> The employee must also establish that he sustained an injury in the performance of duty as alleged and that his disability for work, if any, was causally related to the employment injury.<sup>5</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>7</sup> Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>8</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.<sup>9</sup>

### ANALYSIS

The Office accepted that while at work on March 7, 2007 appellant picked up a mail tray and experienced numbness in his left hand. Therefore, the issue is whether appellant submitted sufficient medical evidence to establish that this incident caused an injury. The Board finds appellant did not meet his burden of proof in establishing causation as he failed to provide sufficient medical evidence explaining how his left cubital tunnel syndrome was caused by picking up a mail tray.<sup>10</sup>

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<sup>3</sup> See *M.H.*, 59 ECAB \_\_\_ (Docket No. 08-120, issued April 17, 2008); *Emiliana de Guzman (Mother of Elpedio Mercado)*, 4 ECAB 357, 359 (1951); see 5 U.S.C. § 8101(1).

<sup>4</sup> *R.C.*, 59 ECAB \_\_\_ (Docket No. 07-1731, issued April 7, 2008); *Kathryn A. O'Donnell*, 7 ECAB 227, 231 (1954); see 5 U.S.C. § 8122.

<sup>5</sup> *G.T.*, 59 ECAB \_\_\_ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

<sup>7</sup> *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *Edward C. Lawrence*, 19 ECAB 442, 445 (1968).

<sup>8</sup> *T.H.*, 59 ECAB \_\_\_ (Docket No. 07-2300, issued March 7, 2008); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

<sup>9</sup> *I.J.*, 59 ECAB \_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>10</sup> Appellant may wish to file a claim for an occupational injury, defined by 20 C.F.R. § 10.5(q) as "a condition produced by the work environment over a period longer than a single workday or shift," so that consideration may be given to employment duties outside of those accepted for the alleged traumatic incident.

Appellant submitted several reports taken while he was treated in the emergency clinic by Dr. Kaufman. These reports reflect that appellant alleged he “developed some tingling and prickly sensation in the left fourth and fifth fingers tonight at work” and that he “was loading some boxes earlier, but otherwise does not recall any type of injury.” These statements do not provide medical rationale because they merely reflect appellant’s belief regarding the circumstances surrounding his symptoms. Dr. Kaufman offered no opinion as to the cause of appellant’s left hand condition discussed in any way how appellant’s work on March 7, 2007 caused or contributed to the diagnosed condition. Therefore these medical reports are of diminished probative value.<sup>11</sup>

Similarly, none of the progress notes from Dr. Behan are probative as they do not discuss causation.<sup>12</sup> In a May 26, 2007 progress report, Dr. Behan mentioned that appellant “apparently spends most of his day sorting mail” and “over the past [one and a half] months he has developed numbness.” However, this is a speculative statement about appellant’s work activities and symptoms. Dr. Behan further fails to describe how the stated employment factors caused the condition, which he later diagnosed as cubital tunnel syndrome. Moreover, he noted a one and a half month history of left hand numbness and failed to address the March 7, 2007 incident claimed by appellant. Therefore, this report does not constitute probative medical evidence.

Finally, appellant submitted two medical charts from Bangor Medical Center, both containing illegible signatures. Because the signatures are illegible there is no way to determine whether the person completing the report is as a “physician” as defined by 5 U.S.C. §§ 8101(2). Consequently, these charts are not probative on the issue of causation.<sup>13</sup>

### **CONCLUSION**

The Board finds appellant did not establish that he was injured in the performance of duty.

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<sup>11</sup> See *Robert Broome*, 55 ECAB 339 (2004).

<sup>12</sup> See *id.*

<sup>13</sup> See *Merton J. Sills*, 39 ECAB 572 (1988); *Bradford L. Sutherland*, 33 ECAB 1568 (1982).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 27, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 14, 2008  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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