United States Department of Labor
Employees' Compensation Appeals Board

L.C., Appellant	)	
and	)	**Docket No. 09-972**
	)	**Issued: December 14, 2009**
U.S. POSTAL SERVICE, POST OFFICE, Tujunga, CA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 3, 2009 appellant filed a timely appeal of a November 17, 2008 merit decision of the Office of Workers' Compensation Programs. 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 met her burden of proof to establish that she sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On April 26, 2005 appellant, then a 57-year-old sales associate, filed an occupational disease claim alleging aggravated carpal tunnel syndrome due to continued use and repetitive motions of her hands and wrists. She has a history of carpal tunnel syndrome since 1989 when she worked as a distribution clerk. Appellant first realized that her condition was caused or aggravated by employment activities on June 23, 2004. She did not immediately stop work although the employing establishment advised that she previously stopped work as a distribution

clerk on September 15, 1995 and returned to work on February 2, 2003 as a sales associate. The employing establishment controverted the claim indicating that appellant was not employed between September 15, 1995 and February 3, 2003.[1] The employing establishment noted that appellant's job as a sales associate did not require constant keyboard use.

Appellant submitted a December 5, 2004 statement noting that her carpal tunnel syndrome symptoms first began in December 1989. She noted becoming a sales associate in February 2003 and since had several episodes of carpal tunnel syndrome. In particular, appellant indicated that using her right hand for keyboarding worsened her condition. She also submitted several medical reports dated between 1992 and 2003. This included reports dated December 26, 2002 and January 31, 2003 from Dr. Glenn Takei, a Board-certified orthopedic surgeon, who found moderately severe right carpal tunnel syndrome and possible underlying rheumatoid arthritis. On January 16, 2003 Dr. Charles Imbus, a Board-certified neurologist, diagnosed moderately severe carpal tunnel syndrome with some wallerian degeneration present.

After the Office requested additional factual and medical evidence, appellant submitted several photographs of her work area.

In a July 13, 2005 decision, the Office denied appellant's claim finding insufficient medical evidence to establish causal relationship. In a September 12, 2005 decision, it denied her oral hearing request as untimely filed.

Appellant subsequently submitted reports dated August 15 and 28, 2001 from Dr. Raymond Gritton, a Board-certified physiatrist, who diagnosed very mild rheumatoid arthritis and noted that appellant's job as a distribution clerk required repetitive lifting and sorting mail.

On May 15, 2006 appellant requested reconsideration. In a statement of the same date, she noted that she had tested false positive for rheumatoid arthritis as a result of her hepatitis C condition. Appellant was also diagnosed with acute tendinitis due to repetitive hand use as required by her work duties. She described her job duties as a distribution clerk which required repeated movement of her wrists, hands and fingers. Appellant also described her sales associate duties that included keyboarding, reaching and lifting packages. She indicated that her condition improved with cessation of activities and, therefore, she had been off work for several months. Appellant also provided a list of previous diagnoses and physicians who had treated her.

Appellant submitted medical reports dated between December 17, 1991 and June 23, 1993 opining that her position as a distribution clerk caused bilateral chronic sub-acute tendinitis of the hands and forearms and aggravated her rheumatoid arthritis. She also submitted more contemporaneous reports including June 16, 2004 x-ray results of her left hand and wrist from Dr. Michael Smith, a diagnostic radiologist, who diagnosed minor degenerative change with slight narrowing of the radiocarpal joints. On November 22, 2004 Dr. Soon-Min Tan, a Board-

[1] The employing establishment terminated appellant on September 15, 1995 for excessive absences. Appellant has a prior claim, xxxxxx996, that the Office accepted for bilateral flexor tenosynovitis and temporary aggravation of rheumatoid arthritis both wrists. This claim was accepted for medical treatment for the closed period of June 13, 1990 to May 31, 1992. Claim number xxxxxx996 is not presently before the Board.

certified internist, noted that appellant's history of injury consisted of various joint pain since 1988 and a diagnosis of rheumatoid arthritis and tendinitis. He found that her examination was remarkable for lack of synovitis. Dr. Tan diagnosed right carpal tunnel syndrome, right hand pain and doubted that appellant had rheumatoid arthritis. On May 11, 2006 Dr. Marek Zdarzyl, an internist, noted treating appellant since March 2006 for hyperlipidemia, depression and hepatitis C. He noted that she requested his opinion as to whether her carpal tunnel syndrome was caused by the type of work she used to do. Dr. Zdarzyl noted that the medical records indicated the nature of appellant's employment and repetitive use of her hands and fingers were the causative factor. He also noted that all rheumatologists who treated her found she did not have rheumatoid arthritis but had a positive rheumatoid factor test. Dr. Zdarzyl indicated that his report was based solely on a review of the medical records presented by appellant.

In a July 6, 2006 decision, the Office denied modification of its July 13, 2005 decision finding the medical evidence insufficient to establish causal relationship. It further found that, as appellant was not employed by the employing establishment between September 15, 1995 and February 3, 2003, the period of exposure began on February 4, 2003 when she began working as a sales associate.

In a July 6, 2006 statement, appellant requested reconsideration. In a subsequent undated statement, she noted that the present claim began in 1994. Appellant also noted working in 1994 as a dispatch clerk performing repetitive breakdown and throwing of mail. She indicated that she was terminated in 1995 for an inability to perform her duties due to continuous symptoms and pain. Appellant also noted that, prior to returning to work in 2003, she tested positive for carpal tunnel syndrome. She indicated that she returned to work in 2003 as a window clerk, which required repeated movement and flexing of her wrists, holding arms in the air, lifting above her shoulders and rapid finger movement. Appellant had to take time off again due to severe pain. On September 1, 2006 she stated that she was hired by the employing establishment in August 1988. Appellant noted receiving compensation from January through May 31, 1992 for right wrist acute tendinitis. She indicated that she separated from the employing establishment in June 1992 for excessive absences. Appellant was rehired in 1994 and performed dispatch clerk duties which caused her claimed condition. She stated that she was terminated in June 1995 for excessive absences due to her condition and rehired in November 2002 as a sales associate. Appellant reiterated that her sales clerk duties aggravated her carpal tunnel syndrome. On July 15, 2007 she noted that she was waiting for her physician's report on causal relationship.

On August 15, 2007 Dr. John Osterkamp, a Board-certified orthopedic surgeon, noted that his examination revealed limited motion of the fingers and wrist. He diagnosed left colles fracture with residual carpal tunnel syndrome and stiffness of hand. Dr. Osterkamp recommended surgery. In a September 26, 2007 report, Dr. Jean Ding, a Board-certified orthopedic surgeon, noted appellant's complaint of bilateral constant hand numbness right worse than left, bilateral upper extremity pain and swelling. She noted that appellant's examination revealed normal range of motion of the right upper extremity and spine as well as a normal neurological examination. Dr. Ding noted cumulative trauma from repetitive use of the upper extremities for writing, lifting, pushing and pulling. She diagnosed bilateral carpal tunnel syndrome and right ganglion cyst. Dr. Ding opined that appellant's diagnosed conditions were caused by industrial exposure and secondary to work activities based on appellant's medical history and records.

In an October 3, 2007 decision, the Office denied modification of its July 6, 2007 decision finding that the medical evidence did not establish causal relationship between appellant's wrist and hand condition and her work activities from 2003.

On October 2, 2008 appellant requested reconsideration. In an October 1, 2008 statement, she indicated that she was submitting additional medical evidence. Appellant also noted that she underwent carpal tunnel release surgery. She submitted an electromyogram (EMG) report dated April 8, 2008 without a physician's name. The EMG report noted findings and advised that the study was consistent with extremely severe right carpal tunnel syndrome and very severe left carpal tunnel syndrome. It also suggested further clinical correlation.

In a November 17, 2008 decision, the Office denied modification of its October 3, 2007 decision finding the medical evidence insufficient to establish an injury causally related to appellant's federal duties.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act 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 filed within the applicable time limitation; that an injury was sustained while 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[2]

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.[3]

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. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty,

[2] *J.E.*, 59 ECAB ___ (Docket No. 07-814, issued October 2, 2007); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[3] *D.I.*, 59 ECAB ___ (Docket No. 07-1534, issued November 6, 2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

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 employee.[4]

ANALYSIS

The record supports that the duties of appellant's sales associate position included keyboarding, reaching and lifting packages. However, appellant has not provided sufficient medical evidence to establish that her preexisting carpal tunnel syndrome has been aggravated due to these employment activities.

On September 26, 2007 Dr. Ding diagnosed bilateral carpal tunnel syndrome and right ganglion cyst. She noted that appellant sustained cumulative trauma from repetitive use of her upper extremities for writing, lifting, pushing and pulling. Dr. Ding opined that appellant's diagnosed conditions were secondary to work activities and caused by industrial exposure. Although she supports causal relationship, she does not provide any medical rationale explaining how appellant's repetitive duties as a sales associate specifically aggravated her carpal tunnel condition and was not a natural progression of her preexisting hand and wrist conditions.[5] Dr. Ding's report did not demonstrate a familiarity with any particular work duties in appellant's job as a sales associate that she performed since 2003. This distinction is particularly important as the medical evidence demonstrates that appellant has a history of hand and wrist conditions since 1988.[6] Thus, Dr. Ding's report is insufficient to establish appellant's claim for aggravation of carpal tunnel syndrome due to her duties as a sales associate.

In a May 11, 2006 report, Dr. Zdarzyl noted that he treated appellant for hyperlipidemia, depression and hepatitis C. He further noted that appellant requested his opinion regarding the cause of her carpal tunnel syndrome. Dr. Zdarzyl opined that based on the medical records that appellant presented to him, repetitive use of hands and fingers were the causative factor in her condition. Despite providing some support for causal relationship, his opinion is of little probative value as he did not provide any medical rationale to explain the reasons for his opinion and did not appear to be familiar with particular duties of appellant's sales associate job.[7]

Dr. Tan's November 22, 2004 report noted appellant's history of joint pain since 1988. She also diagnosed right carpal tunnel syndrome and right hand pain. He did not, however, attribute a cause of appellant's condition or explain whether it was caused or aggravated by appellant's duties as a sales associate. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on

[4] *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[5] *S.E.*, 60 ECAB ___ (Docket No. 08-2214, issued May 6, 2009); *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

[6] *See Vernon R. Stewart*, 5 ECAB 276, 280 (1953) (where the Board held that medical opinions based on histories that do not adequately reflect the basic facts are of little probative value in establishing a claim).

[7] *See id.*

the issue of causal relationship.[8] Similarly, the reports of Drs. Smith and Osterkamp diagnosed appellant's hand and wrist condition but did not address the issue of causal relationship. As noted, medical evidence without an opinion on causal relationship is of little probative value. Appellant has also submitted various medical evidence from her prior claim that predates the current claim and the duties that she began performing in 2003.

The record also contains an EMG report dated April 8, 2008 that diagnosed severe bilateral carpal tunnel syndrome. The report did not contain the name or signature of a physician who performed the EMG. The Board has held that a medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in 5 U.S.C. § 8102(2), and reports lacking proper identification do not constitute probative medical evidence.[9] Consequently, appellant has not submitted sufficient medical evidence to establish a causal relationship between her carpal tunnel condition and her duties as a sales associate.

On appeal, appellant asserts that her condition began in 1994 but was misdiagnosed as rheumatoid arthritis. She further asserts that most of her treating physicians did not feel they were qualified to show causal relationship as they did not treat her for carpal tunnel syndrome. The Board notes that the medical evidence of record reflects that appellant has been diagnosed with carpal tunnel syndrome, and accordingly, her claim has been treated as an occupational disease claim for aggravated carpal tunnel syndrome. However, appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which she claims compensation was caused or adversely affected by factors of her federal employment.[10] As noted, she has not submitted sufficient medical evidence to meet this burden.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an occupational disease in the performance of duty.

[8] *K.W.*, 59 ECAB ___ (Docket No. 07-1669, issued December 13, 2007).

[9] *See D.D.*, 57 ECAB 734 (2006) (medical reports lacking proper identification cannot be considered as probative evidence in support of a claim).

[10] *B.F.*, 60 ECAB ___ (Docket No. 09-60, issued March 17, 2009).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated November 17, 2008 is affirmed.

Issued: December 14, 2009
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board