

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

L.W., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Tulsa, OK, Employer**

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**Docket No. 08-2039
Issued: February 5, 2009**

Appearances:
Appellant, pro se
No appearance, for the Director

Oral Argument January 8, 2009

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 25, 2008 appellant filed a timely appeal from the December 3, 2007 merit decision of the Office of Workers' Compensation Programs, which accepted her claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of the case.

ISSUE

The issue is whether any medical conditions other than the accepted ganglion cyst are causally related to appellant's federal employment.

FACTUAL HISTORY

On September 4, 2007 appellant, then a 54-year-old modified distribution clerk, filed a claim alleging that she sustained a left wrist injury in the performance of duty: "Overuse of hands and the doctor I went to for the elbows must have torn something in my left wrist when he did the EMG [electromyogram]. My hand did not start swelling excessively until after that." She first realized that her wrist condition was caused or aggravated by her employment on August 29, 2007.

On November 2, 2007 the Office asked appellant to submit medical opinion evidence to support her claim:

“Provide a comprehensive medical report from your treating physician which describes your symptoms; results of examinations and tests (including Phalen’s and Tinel’s signs and results of any nerve conduction or EMG studies); diagnosis; the treatment provided; the effect of treatment, and the doctor’s opinion, with medical reasons, on the cause of your condition. Specifically, if your doctor feels that work activities in your [f]ederal employment contributed to your condition, an explanation of how such exposure contributed should be provided.”

On September 26, 2007 Dr. Michael Karathanos, appellant’s neurosurgeon, reported that an August 27, 2007 magnetic resonance imaging (MRI) scan of the left wrist demonstrated various changes suggestive of median neuritis, small ganglion cyst, moderate-to-severe edema-like signal of the pisiform, and moderate-to-high grade partial thickness tear of the flexor carpal ulnaris tendon at the pisiform insertion. He stated that he did not have much to offer appellant. Dr. Karathanos stated that appellant needed to be seen by both a rheumatologist as well as a hand specialist. He offered the following opinion on the relationship of appellant’s condition to her federal employment: “I feel that her condition might have been affected by her employment, although her work conditions were within her restrictions. The hand specialist and rheumatologist might be able to give more definite opinion concerning this.”

On December 3, 2007 the Office accepted appellant’s claim for ganglion and cyst of synovium, tendon and bursae, left. On appeal, appellant noted that her claim was approved but “my doctor said that the neuritis and the tendon was not included in the decision.”

LEGAL PRECEDENT

The Federal Employees’ Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.¹ An employee seeking benefits under the Act has the burden of proof to establish the essential elements of her claim, including that she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.²

Causal relationship is a medical issue³ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician’s rationalized opinion on whether there is a causal relationship between the claimant’s diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete

¹ 5 U.S.C. § 8102(a).

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Mary J. Briggs*, 37 ECAB 578 (1986).

factual and medical background of the claimant,⁴ must be one of reasonable medical certainty⁵ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁶

ANALYSIS

Appellant disagrees with the Office's December 3, 2007 decision accepting her claim for a ganglion cyst because it did not accept the other conditions found on the August 27, 2007 MRI scan, including mild median neuritis and a moderate-to-high grade partial thickness tear of the flexor carpi ulnaris tendon at its pisiform insertion.⁷ The Office accepted that she sustained a left wrist ganglion cyst injury in the performance of duty. Appellant has the burden of proof to establish that the other specific conditions for which she claims compensation are causally related to the accepted employment injury.

The only medical opinion that discusses causal relationship is the September 26, 2007 report of Dr. Karathanos, the attending neurosurgeon, who stated that appellant's condition "might have been affected" by her employment. This is speculative language lacking any reasonable degree of medical certainty. The Board finds that Dr. Karathanos' opinion is of diminished probative or evidentiary weight on the issue of causal relationship.⁸ Although Dr. Karathanos need not reduce the cause or etiology of the MRI scan findings to an absolute medical certainty, neither can his opinion be speculative or equivocal.⁹ Suggesting that a hand specialist and rheumatologist might be able to give "more definite opinion concerning this" does not enhance the value of his opinion.

Because appellant has not submitted a well-reasoned medical opinion explaining how the specific physical activities she performed in her federal employment caused or aggravated the conditions found on the August 27, 2007 MRI scan, she has not met her burden of proof to establish the critical element of causal relationship. The Board will affirm the Office's December 3, 2007 decision.

CONCLUSION

The Board finds that appellant has not met her burden to establish that medical conditions other than the accepted ganglion cyst are causally related to her federal employment.

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁶ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁷ *See* 20 C.F.R. § 501.3(a) (any person adversely affected by a final decision of the Director, or his duly authorized representative, may file an application for review of such decision by the Board).

⁸ *See Jennifer Beville*, 33 ECAB 1970 (1982) (statement of a Board-certified internist that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value).

⁹ *Philip J. Deroo*, 39 ECAB 1294 (1988).

ORDER

IT IS HEREBY ORDERED THAT the December 3, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 5, 2009
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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