United States Department of Labor
Employees' Compensation Appeals Board

F.H., Appellant	)	
and	)	**Docket No. 11-533**
	)	**Issued: November 1, 2011**
U.S. POSTAL SERVICE, POST OFFICE, Macon, GA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 30, 2010 appellant filed a timely appeal from an October 12, 2010 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act (FECA)[1] and 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 her burden of proof in establishing that she sustained an injury causally related to factors of her federal employment.

FACTUAL HISTORY

On June 20, 2010 appellant, then a 55-year-old mail processing clerk, filed an occupational disease claim alleging that she developed right carpal tunnel syndrome due to years

[1] 5 U.S.C. § 8101 *et seq.*

of repetitive motion while handling mail. She first became aware of the injury and its relation to her work on September 23, 2005. Appellant stopped work on June 16, 2010.

In a July 21, 2010 statement received by OWCP on July 22, 2010, appellant indicated that, in 2005, she began to experience numbness and tingling in her right hand. She explained that she sought medical treatment; however, in 2010, she began experiencing persistent numbness and continuous pain and lost the ability to grip and hold objects. Appellant attributed the condition to years of keyboarding. Additionally, she indicated that she worked in express mail which required that she tie, cut, twist and lock heavy bags for six hours a day. Appellant also indicated that she then worked in automation where she continuously lifted, loaded and swept heavy trays of mail for eight hours a day.

OWCP received a March 25, 2010 nerve conduction study and electromyography scan from a physical therapist.

Additionally, OWCP received several reports dating from March 16 to May 28, 2010 from appellant's treating physician, Dr. Patrick L. Martin, a Board-certified orthopedic surgeon. In a March 16, 2010 report, Dr. Martin noted that appellant was right hand dominant and worked as a clerk at the employing establishment. He diagnosed right carpal tunnel syndrome. On March 30, 2010 Dr. Martin recommended a right carpal tunnel release, which was performed on April 21, 2010. He saw appellant for follow up on April 23 and May 4 and 28, 2010. At that time, Dr. Martin recommended conservative treatment with icing and splinting at night.

By letters dated August 18, 2010, OWCP advised appellant and the employing establishment that additional factual and medical evidence was needed.

In a letter dated September 2, 2010, LaSonya L. Bryant, a health and resource management specialist, provided e-mail correspondence from appellant's supervisor, Gail Squire and a position description. Ms. Bryant noted that the functional requirements for a mail processing clerk were required but limited to lifting less than 70 pounds and carrying less than 45 pounds. Appellant's supervisor concurred with appellant's allegations related to her duties. OWCP also received a position description for a mail processing clerk.

In an undated statement, appellant reiterated her duties. She also noted that she did not engage in any sports, hobbies or musical instruments or outside activities. Appellant indicated that she used the computer to pay bills and read e-mail, no more than 30 minutes a week.

In a September 7, 2010 report, Dr. Martin noted appellant's history of injury and treatment, which included her April 21, 2010 carpal tunnel surgery. He reported treating her since September 23, 2005 for bilateral hand pain and numbness that began one to two years before he first saw her. Appellant was diagnosed with bilateral carpal tunnel syndrome. Dr. Martin advised that she was able to return to work on August 16, 2010 without restrictions. He opined: "I feel that [appellant's] carpal tunnel syndrome has been directly related to repetitive use injury over the years of her job as an employee of the [employing establishment]. I feel that the repetitive nature, strain, stress and accumulation of chronic strain has contributed to her current condition with subsequent need of surgical intervention and postoperative relief of pain."

By decision dated October 12, 2010, OWCP denied appellant's claim. It found that the medical evidence did not demonstrate that the claimed medical condition was related to established work-related events.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA, that the claim was timely filed within the applicable time limitation period of FECA, 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.[2] 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.[3]

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.[4]

ANALYSIS

The Board finds that this case is not in posture for decision.

In this case, the evidence establishes that appellant has carpal tunnel syndrome and was involved in activities at work which included: years of keyboarding; tying, cutting, twisting and locking heavy bags; and continuously lifting, loading and sweeping heavy trays of mail on a daily basis from six to eight hours a day.

The medical evidence in support of appellant's claim includes several reports from Dr. Martin noting her history of treatment of her bilateral carpal tunnel syndrome, which

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

[3] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[4] *Id.*

included April 21, 2010 surgery on the right hand. In his March 16, 2010 report, he noted that she worked as a clerk at the employing establishment and diagnosed right carpal tunnel syndrome. In a September 7, 2010 report, Dr. Martin noted appellant's history of injury and treatment and opined that her carpal tunnel syndrome was "directly related to repetitive use injury over the years of her job." Furthermore, he advised that the repetitive nature, strain, stress and accumulation of chronic strain contributed to her current condition. While the reports from Dr. Martin are not sufficiently rationalized[5] to meet appellant's burden of proof in establishing her claim, his reports are specific as to her duties and are sufficient to require further development of the case by OWCP.[6]

Proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence. It has the obligation to see that justice is done.[7] The Board finds that the case must be remanded to OWCP for preparation of a statement of accepted facts concerning appellant's working conditions and referral of the matter to an appropriate Board-certified medical specialist to determine whether she may have developed carpal tunnel syndrome in either arm, either by cause or aggravation, due to performing her employment duties. Following this and any other development deemed necessary, OWCP shall a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

[5] *Frank D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are of limited probative value); *see Jimmie H. Duckett*, 52 ECAB 332 (2001).

[6] *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 280 (1978).

[7] *Jimmy A. Hammons*, 51 ECAB 219 (1999); *Marco A. Padilla*, 51 ECAB 202 (1999); *John W. Butler*, 39 ECAB 852 (1988).

ORDER

IT IS HEREBY ORDERED THAT the October 12, 2010 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action consistent with this opinion.

Issued: November 1, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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