

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

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C.P., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,  
New York, NY, Employer

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**Docket No. 13-1779  
Issued: March 14, 2014**

*Appearances:*

Thomas R. Uliase, Esq., for the appellant  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On July 24, 2013 appellant, through her attorney, filed a timely appeal from an April 18, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP) which denied her traumatic injury claim. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) 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 met her burden of proof to establish that she sustained a bilateral wrist condition causally related to the September 5, 2012 employment incident.

**FACTUAL HISTORY**

The record reveals that appellant had a previously accepted occupational disease claim dated May 31, 2000 (File No. xxxxxx976) for bilateral carpal tunnel syndrome. She underwent right carpal tunnel surgery on March 27, 2002 and was disabled from work for 12 years. Appellant returned to a modified-duty position on August 31, 2012.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

On September 20, 2012 appellant, a 47-year-old carrier technician, filed a traumatic injury claim alleging that on September 5, 2012 she sustained injuries to both hands, wrists and arms while collecting mail, opening and closing truck doors and collection boxes and picking up mail tubs. She stopped work.

In a September 5, 2012 handwritten note, appellant stated that at approximately 1:20 p.m. she noticed numbness and tingling in both thumbs and pain in both wrists. She also experienced difficulty picking up mail tubs, turning arrow keys in collection boxes, and closing doors on trucks and collection boxes. Appellant noted that she collected mail totaling approximately 27 boxes while her coworkers drove the truck.

In a September 24, 2012 letter, Antoinette DeSisao, a manager, controverted appellant's claim noting that she already submitted a recurrence of disability claim under File No. xxxxxx976. She explained that, following the previous occupational disease claim, appellant returned to limited-duty part-time work on August 31, 2012 and was assigned to assist various carriers who drove the mail truck while she delivered packages and mail. Ms. DeSisao stated that on September 5, 2012 at approximately 2:10 p.m. the carrier working with appellant brought her back because her hands hurt from turning the arrow key in the collection boxes, opening and closing doors on the truck and picking up the buckets. Appellant stated that she could no longer work.

In a September 24, 2012 letter, Audrey Chan, a health and resources management specialist, controverted appellant's claim because she had submitted a recurrence claim under File No. xxxxxx976 and worked within her limitations.

By letter dated October 5, 2012, OWCP advised appellant that the evidence submitted was insufficient to establish her claim and requested additional documentation. It requested material to establish that the September 5, 2012 incident occurred as alleged and medical evidence to establish that she sustained a diagnosed condition causally related to the alleged incident.

In a September 25, 2012 treatment record, Dr. Shahid Mian, a Board-certified orthopedic surgeon, related that appellant was a postal mail carrier. On September 5, 2012 appellant lifted mail tubs and repetitively opened and closed doors of collection boxes and trucks when she felt severe pain, paresthesias and numbness in both wrists and hands. Dr. Mian reviewed her history and noted that she had a work-related right knee injury in 1995, which required surgery, and a work-related right elbow injury in 1998. Upon examination of appellant's wrists and hands, he observed swelling over the radial aspect on the right and atrophy over the thenar eminence on the left. Dr. Mian also noted tenderness over the carpal bone and first metacarpal joint on the right and over the carpal bone on the left. Flexion and extension were to 40 degrees and radial and ulnar deviation was to 10 degrees. Dr. Mian diagnosed aggravated bilateral carpal tunnel syndrome and advised that she was temporarily totally disabled.

In an October 12, 2012 note, Dr. Mian reported that he examined appellant on September 25, 2012 for aggravated bilateral carpal tunnel syndrome. He stated that she was unable to work beginning September 5, 2012.

In a decision dated November 7, 2012, OWCP denied appellant's claim finding the evidence insufficient to establish that the September 5, 2012 incident occurred as alleged or that she sustained a medical condition as a result of the alleged employment incident.

On November 16, 2012 appellant requested a hearing, which was held on March 4, 2013. She was represented by counsel. Appellant stated that she began working for the employing establishment in October 1990 as a carrier. Her duties involved retrieving, sorting, boxing up, carrying and putting mail in a bag for delivery and required repetitive lifting and use of her arms. Appellant described her previous work-related injuries which included a November 2, 1994 right knee and left ankle injury, a 1998 left elbow injury and a May 2000 bilateral carpal tunnel syndrome injury. On March 27, 2002 she underwent right carpal tunnel surgery. Counsel noted that in June 2012 the employing establishment offered appellant a limited-duty part-time job which involved loading parcels onto trucks, driving a two-ton vehicle and delivering parcel post assignments for five hours a day. Appellant returned to work in August 2012 and assisted other parcel post drivers in delivering parcels.

Regarding the September 5, 2012 employment incident, appellant stated that when she went to work none of her regularly assigned carriers wanted to work with her because she slowed them down. She was assigned to assist a carrier whose duties involved collecting mail from the blue boxes. Appellant sat on the passenger side while the other carrier drove to the collection boxes. She got out of the truck, emptied the collection box into the mail tub, and took it back to the truck. Appellant noted that a tub could weigh up to 10 pounds and that she sometimes made multiple trips. At approximately 1:20 p.m., she experienced pain in her arms and could barely turn the key because her fingers and hand froze up. Appellant was unable to finish her route and was advised to fill out a Form CA-1. Counsel alleged that appellant's testimony was consistent in describing a new September 5, 2012 work incident and that Dr. Mian's September 25, 2012 report also included an accurate description of the September 5, 2012 incident. He stated that there was sufficient medical evidence to establish a new injury or, at the least, to refer appellant for a second-opinion examination.

In a November 6, 2012 treatment record, Dr. Mian related appellant's complaints of pain, paresthesias, and numbness in both wrists and hands, right more than left. Appellant had difficulty carrying things and weak grip strength. Upon examination, Dr. Mian observed swelling over the right radial aspect and tenderness over appellant's right and left wrists. Tinel's sign was positive on the right and negative on the left. Finkelstein's test was positive on both. Dr. Mian diagnosed aggravated bilateral carpal tunnel syndrome and stated that she was temporarily totally disabled. He reported that appellant was unable to work beginning September 5, 2012 and that it was unknown whether she would be able to resume full duty.

In a February 21, 2013 report, Dr. Mian noted appellant's complaints of pain, paresthesias and numbness in both hands and wrists that radiated to the forearm. He provided examination findings similar to his previous reports. Dr. Mian diagnosed bilateral carpal tunnel syndrome. Appellant was temporarily totally disabled from work but willing to do a job which did not involve repetitive hand motion, pushing and pulling or driving all day.

In a March 22, 2013 letter, the employing establishment responded to the March 4, 2013 hearing transcript and pointed out that appellant returned to work following two separate impartial medical examinations which found that she no longer had any disability related to her accepted conditions and was capable of returning to full duty. The employing establishment

contended that there was insufficient factual evidence to establish that appellant sustained a new injury or an aggravation of an old injury on September 5, 2012.

By decision dated April 18, 2013, an OWCP hearing representative modified the November 7, 2012 decision. She accepted that the September 5, 2012 incident occurred as alleged but found that the medical evidence was insufficient to establish that appellant sustained a bilateral wrist condition causally related to the accepted event.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence<sup>3</sup> including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.<sup>4</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether “fact of injury” has been established.<sup>5</sup> 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>6</sup> Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.<sup>7</sup> An employee may establish that the employment incident occurred as alleged but fail to show that his or her disability or condition relates to the employment incident.<sup>8</sup>

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.<sup>9</sup> 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 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.<sup>10</sup> The weight of the medical evidence is determined by its reliability, its probative

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

<sup>4</sup> *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

<sup>6</sup> *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

<sup>7</sup> *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>8</sup> *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

<sup>9</sup> *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

<sup>10</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>11</sup>

### ANALYSIS

Appellant alleges that on September 5, 2012 she injured her hands, wrists and arms in the performance of duty. By decisions dated November 7, 2012 and April 18, 2013, OWCP denied her claim finding insufficient medical evidence to establish that she sustained any diagnosed condition as a result of the accepted September 5, 2012 incident. The Board finds that appellant did not meet her burden of proof to establish that she sustained a bilateral wrist condition causally related to the accepted incident.

Appellant was initially treated by Dr. Mian. In a September 25, 2012 report, he related that on September 5, 2012 appellant experienced severe pain, paresthesias and numbness in both wrists and hands after she lifted mail tubs and repetitively opened and closed doors of collection boxes and trucks. Dr. Mian noted that appellant had a 1995 work-related right knee injury and a 1998 work-related right elbow injury. Upon examination, he observed swelling over the radial aspect of the right wrist and atrophy over the thenar eminence of the left. Dr. Mian also noted tenderness over the carpal bone and first metacarpal joint of the right wrist and over the carpal bone of the left. Flexion and extension were to 40 degrees and radial and ulnar deviation was to 10 degrees. Dr. Mian diagnosed aggravated bilateral carpal tunnel syndrome and indicated that appellant was temporarily totally disabled. In follow-up reports dated October 12 and November 6, 2012 and February 21, 2013, he related that appellant was examined for aggravated bilateral carpal tunnel syndrome and provided examination findings similar to his previous reports.

The Board notes that Dr. Mian provided a diagnosis of aggravated bilateral carpal tunnel syndrome and describes the September 5, 2012 employment incident. He does not, however, provide any opinion on the cause of appellant's condition or whether her condition resulted from the September 5, 2012 incident. 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 the issue of causal relationship.<sup>12</sup> Although he describes the September 5, 2012 incident at work, Dr. Mian does not explain, based on medical rationale, whether the accepted incident caused or contributed to her aggravated bilateral carpal tunnel syndrome. Furthermore, the Board notes that he fails to provide an accurate background regarding appellant's condition because he does not mention her bilateral carpal tunnel syndrome injury in 2000. The Board has held that medical reports must be based on a complete and accurate factual and medical background and medical opinions based on an incomplete or inaccurate history are of limited probative value.<sup>13</sup>

On appeal appellant's attorney alleges that Dr. Mian's September 25, 2012 report provided an accurate history of injury, a medical diagnosis and an opinion on causal relationship. As previously noted, however, Dr. Mian's reports lack probative value and are insufficient to

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<sup>11</sup> *James Mack*, 43 ECAB 321 (1991).

<sup>12</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

<sup>13</sup> *J.R.*, Docket No. 12-1099 (issued November 7, 2012); *Douglas M. McQuaid*, 52 ECAB 382 (2001).

establish appellant's claim. The Board finds that appellant has not submitted sufficient probative medical evidence from a physician to establish that she sustained a bilateral wrist condition causally related to the September 5, 2012 employment incident.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

**CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained a bilateral wrist condition causally related to the September 5, 2012 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 18, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 14, 2014  
Washington, DC

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

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

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