



it to her employment on December 7, 2013, the date she was last exposed to the work factors identified as causing her condition. She stopped work on December 7, 2013. Appellant's supervisor maintained that appellant filed her claim when she did not obtain leave over the holidays.

In a form report dated December 9, 2013, Dr. Michael O'Connor, an osteopath, described the history of injury as left forearm pain, tingling, and weakness. He diagnosed carpal tunnel syndrome and checked "yes" that the condition was caused or aggravated by employment, providing as a reason "repetitive motion and use." Dr. O'Connor found that appellant was totally disabled beginning December 9, 2013.

By letter dated December 16, 2013, OWCP requested that appellant submit additional factual and medical information, including a detailed report from her attending physician addressing the relationship between any diagnosed condition and work factors.

In a report dated December 8, 2013, received by OWCP on February 10, 2014, Dr. O'Connor evaluated appellant for pain in the left arm and forearm. He indicated that her symptoms were consistent with carpal tunnel syndrome and referred her for an electromyogram (EMG) study of the left upper extremity to confirm the diagnosis. Dr. O'Connor stated, "This injury has been present for several years during which [appellant] has work or repetitive motion-type job with the [employing establishment]. It is likely that this job significantly contributes to and is the presumptive cause of her condition."

In a January 8, 2014 response to OWCP's request for information, appellant attributed her condition to lifting and sorting mail, opening mailboxes, and loading and pushing mail containers down ramps.

In a progress report dated January 8, 2014, Dr. O'Connor stated, "[Appellant] likely has carpal tunnel syndrome. Being off from work has helped as the repetitive activity at work is clearly an exacerbating/causative factor for her problem. [Appellant] has an EMG scheduled for tomorrow." He diagnosed carpal tunnel syndrome and found that appellant was unable to work.

An EMG study of the left upper extremity performed on January 9, 2014 revealed findings of "moderate compression in the left median nerve within the carpal tunnel at the wrist."

In a disability certificate dated January 9, 2014, Dr. O'Connor diagnosed severe carpal tunnel syndrome and advised that appellant was disabled from December 9, 2013 to January 9, 2014.<sup>2</sup>

On January 15, 2014 the employing establishment controverted appellant's claim, noting that she did not file a claim until it denied her request for vacation time in December 2013. It indicated that she worked 20 to 40 hours a week as a carrier "casing letters and flats, bundling mail in trays and delivering the mail and parcels via privately owned vehicle."

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<sup>2</sup> In a disability certificate dated February 7, 2014, Dr. O'Connor diagnosed carpal tunnel syndrome and found that appellant was disabled from February 8 to March 8, 2014.

By decision dated March 10, 2014, OWCP denied appellant's claim on the grounds that it was not timely filed. It determined that the injury occurred in December 2007, but she did not file her claim until December 9, 2013, more than three years after the date of injury.

On March 27, 2014 appellant requested an oral hearing before an OWCP hearing representative. On March 31, 2014 counsel requested a telephone hearing.

At the telephonic hearing, held on August 15, 2014, appellant related that she began working as a rural carrier in November 1998. She was diagnosed with carpal tunnel syndrome in 2007 and told that it was related to her work in December 2013. Appellant had symptoms of carpal tunnel syndrome in both hands but greater on the left side, which was her dominant side. She worked her regular job duties until December 2013. Appellant was off work from December 8, 2013 to April 8, 2014, when she resumed her regular employment. The hearing representative advised her to submit a medical report addressing the relationship between her carpal tunnel syndrome and her work duties.

In a report dated August 25, 2014, Dr. O'Connor diagnosed carpal tunnel syndrome following an EMG study and noted that appellant would require surgery at some point. He related:

“[Appellant] works for the [employing establishment] and given the nature of her job I believe that her symptoms are most likely directly attributable to her daily work activity. I have reviewed a description of her daily work routine. [Appellant] spends significant portions of her day sorting mail which is a repetitive procedure which involves grasping bundles of mail and placing it in appropriate stacks and receptacles, with repetitive flexing and extending of her wrist and grasping with her fingertips. Given that she has no other similarly repetitive activities outside of her employment, it is highly likely that her occupation has caused and exacerbated her ongoing symptoms of carpal tunnel syndrome.

“I believe this to be true within a reasonable degree of medical certainty.”

On September 15, 2014 Holly Dash, an employing establishment representative, noted that appellant indicated that she had carpal tunnel syndrome since 2007. She questioned why appellant had carpal tunnel syndrome worse on the left side when casing and removing mail had to be performed with the right hand. Ms. Dash also questioned why appellant's physician released her to full duty if work caused her condition.

On September 23, 2014 appellant explained in detail how she performed work with her left hand. She indicated that she went back to full duty because she had to cancel the scheduled surgery when her claim was denied.

In a decision dated October 22, 2014, an OWCP hearing representative affirmed the March 10, 2014 decision as modified to show that appellant timely filed her claim. He noted that she was last exposed to the conditions alleged to have caused her condition two days before she filed her compensation claim. The hearing representative found, however, that the medical

evidence was insufficient to establish that appellant sustained carpal tunnel syndrome due to the identified work factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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 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.<sup>4</sup> 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.<sup>5</sup>

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;<sup>6</sup> (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;<sup>7</sup> and (3) medical evidence establishing 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.<sup>8</sup>

### **ANALYSIS**

Initially, the Board notes that appellant timely filed her claim for compensation. Section 8122(a) of FECA provides that an original claim for compensation for disability or death must be filed within three years after the injury or death.<sup>9</sup> If an employee continues to be exposed to injurious working conditions after such awareness, the time limitation begins to run on the last date of this exposure.<sup>10</sup> Appellant was last exposed to the condition to which she attributed her carpal tunnel syndrome on December 7, 2013 and filed her claim on December 9, 2013; consequently, her claim is timely.

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *See Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>6</sup> *Michael R. Shaffer*, 55 ECAB 386 (2004).

<sup>7</sup> *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

<sup>8</sup> *Beverly A. Spencer*, 55 ECAB 501 (2004).

<sup>9</sup> 5 U.S.C. § 8122(a).

<sup>10</sup> *See Linda J. Reeves*, 48 ECAB 373 (1997).

OWCP accepted that appellant performed repetitive work duties in the course of her federal employment. It denied her claim based on its finding that the medical evidence was insufficient to establish that she sustained employment-related carpal tunnel syndrome.

The Board finds that appellant has not submitted rationalized medical evidence sufficient to show that she sustained carpal tunnel syndrome as a result of her work duties. In a report dated December 8, 2013, Dr. O'Connor found that she had symptoms consistent with carpal tunnel syndrome and advised that it was likely that her work caused her symptoms and was the "presumptive cause of her condition." His opinion, however, that work factors likely caused appellant's symptoms is speculative in nature. The Board has held that medical opinions which are speculative or equivocal in character have little probative value.<sup>11</sup>

In a form report dated December 9, 2013, Dr. O'Connor diagnosed carpal tunnel syndrome and checked "yes" that the condition was caused or aggravated by employment, providing as a reason "repetitive motion and use." While he noted that appellant repetitively used her hands, he did not explain how this activity resulted in employment-related carpal tunnel syndrome. Without rationale, a physician's opinion on causal relationship consists only of checking "yes" to a form question has little probative value and is insufficient to establish a claim.<sup>12</sup>

On January 8, 2014 Dr. O'Connor noted that appellant's condition had improved since she had been off work and opined that repetitive work activity was "clearly an exacerbating/causative factor for her problem." He diagnosed carpal tunnel syndrome and found that she was disabled from employment. Dr. O'Connor did not provide any rationale for his causation finding. A mere conclusion without the necessary rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet a claimant's burden of proof.<sup>13</sup>

In a report dated August 25, 2014, Dr. O'Connor opined that an EMG study confirmed the diagnosis of carpal tunnel syndrome. He noted that appellant performed repetitive flexing of her wrist, grasping and sorting mail and concluded that her symptoms were "most likely directly attributable to her daily work activity." As discussed, however, medical opinions that are speculative or equivocal in character are of diminished probative value.<sup>14</sup>

An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is a causal relationship between her claimed condition and her employment.<sup>15</sup> Appellant must submit a physician's report in which the physician reviews those factors of employment identified by her as causing her condition and, taking these factors into

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<sup>11</sup> *L.R. (E.R.)*, 58 ECAB 369 (2007); *Kathy A. Kelley*, 55 ECAB 206 (2004).

<sup>12</sup> *Deborah L. Beatty*, 54 ECAB 340 (2003).

<sup>13</sup> See *Beverly A. Spencer*, *supra* note 8.

<sup>14</sup> See *D.D.*, 57 ECAB 710 (2006).

<sup>15</sup> *D.E.*, 58 ECAB 448 (2007); *George H. Clark*, 56 ECAB 162 (2004); *Patricia J. Glenn*, 53 ECAB 159 (2001).

consideration as well as findings upon examination and the medical history, explain how employment factors caused or aggravated any diagnosed condition and present medical rationale in support of her opinion.<sup>16</sup> She failed to submit such evidence and therefore failed to discharge her burden of proof.

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 and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not established that she sustained carpal tunnel syndrome causally related to factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the October 22, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 2, 2015  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

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

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

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<sup>16</sup> *D.D.*, 57 ECAB 734 (2006); *Robert Broome*, 55 ECAB 339 (2004).