U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARGUERITE A. FARID and DEPARTMENT OF VETERANS AFFAIRS, LONG BEACH MEDICAL CENTER, Long Beach, Calif.

Docket No. 96-317; Submitted on the Record;
Issued April 22, 1998

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has established that she developed carpal tunnel syndrome, causally related to her March 3, 1993 employment injuries.

On March 3, 1993 appellant, then a 57-year-old nurse, fell while in the performance of duty. The Office of Workers' Compensation Programs accepted that she sustained right shoulder strain, right thumb strain, and right ankle strain, and later accepted that she had a right rotator cuff tear, for which she underwent surgery. Thereafter the Office also accepted that appellant sustained an aggravation of chronic lumbosacral strain.

Appellant further alleged that she developed traumatic carpal tunnel syndrome, causally related to her March 3, 1993 employment fall. In support she submitted August 29, 1994 electrodiagnostic testing results from Dr. Mark S. Van Houten, a Board-certified neurologist, which noted that electromyogram (EMG) and nerve conduction studies demonstrated "marginal relative slowing of the right median sensory distal latency, consistent with the clinical impression of carpal tunnel condition." Dr. Van Houten noted, however, that appellant's electrodiagnostic studies were not grossly abnormal and he diagnosed carpal tunnel condition based upon appellant's history of pain, numbness and right hand weakness involving median innervated structures. He opined that the electrodiagnostic studies could be interpreted to support this diagnostic impression, but noted that the extent to which the median nerve seemed to be electrically compressed seemed to be quite marginal, leaving considerable room for conservative management.

On September 9, 1994 Dr. Peter M. Reynolds, appellant's treating Board-certified orthopedic surgeon, diagnosed carpal tunnel syndrome. He noted a positive Phalen's test but a negative Tinel's sign at the wrist. On October 10, 1994 Dr. Reynolds noted that appellant had right-sided discomfort radiating from the neck down the lateral arm to the hand, noted that she had numbness and paresthesias at night, but noted that a wrist splint did not help significantly. He again diagnosed carpal tunnel syndrome.

However, a January 9, 1995 second opinion medical report from Dr. Robert L. McAllister, a Board-certified orthopedic surgeon, disagreed, finding that, although the electrodiagnostic studies were borderline, he was unable to substantiate the diagnosis of carpal tunnel syndrome as appellant had many responses which he could not explain and which were not those of carpal tunnel syndrome.

A February 14, 1995 medical progress report from Dr. Reynolds noted that appellant had right wrist discomfort with numbness and weakness, noted that she had a positive Tinel's sign and a positive Phalen's test, diagnosed right wrist carpal tunnel syndrome, and recommended right wrist carpal tunnel decompression. In a letter of that same date Dr. Reynolds assessed that when she fell, appellant had direct trauma to her hand and her thenar eminence which progressed to carpal tunnel syndrome over the ensuing years. He concluded that the carpal tunnel syndrome could not have come from repetitive work exposure as appellant had been out of work since the fall. A May 8, 1995 note stated the same, and a May 15, 1995 report also diagnosed right wrist carpal tunnel syndrome.

The Office determined that a conflict in medical opinion evidence existed between Drs. Reynolds and McAllister on the issue of whether appellant had carpal tunnel syndrome causally related to her accepted employment injuries, and that referral to an impartial medical specialist was required.

By report dated June 20, 1995, Dr. Christopher A. Wills, a Board-certified orthopedic surgeon, reviewed appellant's history and the statement of accepted facts, evaluated the medical records of file, noted appellant's complaints, examined appellant, and opined:

> "Regarding carpal tunnel syndrome, this diagnosis has been suggested with electrodiagnostic studies being borderline. I am unable to substantiate this diagnosis with her present clinical findings. I have no orthopedic explanation for her diffuse right upper extremity findings and complaints."

Dr. Wills reported that appellant manifested slightly diminished grip strength to manual testing but that it appeared to be somewhat inconsistent in her grip strength on the right as compared to the left. He indicated that she had a questionably positive Tinel's at her wrist and a negative Phalen's on the right side. He also noted that appellant reported decreased sensation to light touch about the entire hand on the right as compared to the left without any median nerve predominance.

By decision dated August 28, 1995, the Office rejected appellant's claim for carpal tunnel syndrome finding that the impartial medical examiner's opinion constituted the weight of the medical opinion evidence, and that therefore the Office could not accept that she had any carpal tunnel syndrome causally related to her March 3, 1993 injury.

The Board finds that appellant has failed to establish that she developed carpal tunnel syndrome, causally related to her March 3, 1993 employment injuries.

The Federal Employees' Compensation Act, at 5 U.S.C. § 8123(a), in pertinent part, provides: "If there is a disagreement between the physician making the examination for the

United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination." In this case, there was such a conflict between appellant's treating physician, Dr. Reynolds, and the Office second opinion examiner, Dr. McAllister, on whether the evidence supported that appellant had developed carpal tunnel syndrome. The Office, therefore, properly selected an impartial medical specialist and referred appellant, together with a statement of accepted facts and the complete case record, to Dr. Wills to resolve the conflict in opinions.

The Board has frequently explained that, when there exists opposing medical reports of virtually equal weight and rationale, and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.[1] In this case, Dr. Wills reviewed the facts and the record and thoroughly examined appellant. He noted the inconsistencies in her symptomatic presentation and concluded, based upon his examination results, that she did not have carpal tunnel syndrome. As Dr. Will's report was based upon a complete factual and medical background and was supported by medical rationale, it is entitled to that special weight. According it the special weight results in it constituting the weight of the medical opinion evidence in establishing that appellant does not have carpal tunnel syndrome, causally related to her March 3, 1993 employment injuries. Accordingly, the Office properly rejected her claim and properly declined to pay for surgical treatment for a carpal tunnel release.

Therefore, the decision of the Office of Workers' Compensation Programs dated August 28, 1995 is hereby affirmed.

Dated, Washington, D.C.
April 22, 1998

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

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[1] *Carl Epstein*, 38 ECAB 539 (1987); *James P. Roberts*, 31 ECAB 1010 (1980).