U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CYNTHIA H. McNULTY and U.S. POSTAL SERVICE,
POST OFFICE, Columbus, Ohio

Docket No. 96-1311; Submitted on the Record;
Issued April 23, 1998

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty.

On September 15, 1995 appellant, then a 43-year-old flat sorter machine operator, filed a claim alleging that she first became aware that she had sustained an employment-related injury on August 29, 1995. She first reported her alleged condition to her supervisor on September 17, 1995. Appellant attributed the pain in both wrists, hands, lower arms, and shoulders to repetitive keying and casing mail all night. Appellant stated that the pain got worse as the week progressed and by the fifth day of the week she would have to take pain medication. She also stated that when she was off work, she would begin feeling better, but when she returned to work the pain would begin again. By letter dated September 22, 1995, appellant described her job duties as follows:

> "My job is that of a flat sorting machine operator. This job involves keying on a 10 key console at a rate of 80 to 100 strokes a minute. There is support for my back and left elbow but, not for my right one. My wrists are bent. As my right hand is keying my left hand is feeding magazines into the machine. These magazines range from standard size up to one inch thick. Feeding them into the machine causes my left arm to twist at the wrist. Some pieces of mail need to be flipped and that causes extreme twisting. I also load the machine which means lifting boxes of mail weighing up to 25 pounds to waist level, sorting the mail and placing it onto a conveyor belt. The height of the belt is above my waist. Every 30 minutes I unload boxes of mail from about one foot above ground into all purposes containers or APCs. These are nearly six feet high and are loaded to that height. I help or solely load five to six of these a night. My arms and wrists are bent and twisted while loading. *** I also manually place mail into a separated case.... My waist is bent and I am sorting the mail above my head on down to a height two feet above the ground."

The record shows that appellant was placed on total disability from September 15 to 27, 1995 and returned to full-duty status on September 28, 1995.

Appellant also submitted a medical report date stamped September 15, 1995, an attending physician's report (Form CA-20) dated October 4, 1995 and a duty status report (Form CA-17) dated October 4, 1995 from Dr. Christopher D. Holzaepfel, a Board-certified orthopedic surgeon.

In the medical report date stamped September 15, 1995, Dr. Holzaepfel noted that appellant was evaluated on September 15, 1995 for generalized discomfort in both upper extremities, worse in the right than the left wrist area. Dr. Holzaepfel reported that appellant sorts mail and that in the last three months appellant stated that the employing establishment cut the number of employees down from three to two employees doing the same amount of work. He indicated that appellant had occasional very mild paresthesias media nerve distribution in both hands, with no significant right symptoms; that most of appellant's discomfort is in both the dorsal and volar surface of both forearms; and that physical examinations showed full range of motion of appellant's neck, shoulders and elbows with moderate discomfort to firm palpation over the extensor and tendon insertions in the medial and lateral epicondyle bilateral, pain with resisted flexion and extension in both wrists. No swelling to the wrists or elbows was noted. Dr. Holzaepfel opined that "I think we are dealing with a soft tissue problem involving the flexor and extensor tendons of both upper extremities, classic overuse syndrome. I feel that she should take 10 days off of work, go through a work-hardening program although I am concerned about long-term ability for her to continue this type of job given the demands placed on her and her current symptoms."

In the Form CA-20, Dr. Holzaepfel reiterated the statements made in his medical report date stamped September 15, 1995. He again noted that he first examined appellant on September 15, 1995 and stated that there was "No known trauma -- pain discomfort two to three times a week bilateral upper extremities." He indicated that appellant had full range of movement for the neck, shoulders and elbow but pain with resisted flexion and extension in her wrists and pain and palpation over extensor tendons bilateral elbows. Dr. Holzaepfel diagnosed appellant's condition as "soft tissue overuse syndrome bilateral upper extremities" and checked a "yes" box indicating that he believes appellant's condition was caused or aggravated by her federal employment. He noted that this condition was "due to repetitive work of [patient] per her description at work." He also noted that he had been "concerned about long-term ability for her to continue this type of job given demands placed on her and her current symptoms." Dr. Holzaepfel "ordered strength/stretch ?/work-hardening [program for] three times a week for two weeks."

In the Form CA-17, Dr. Holzaepfel indicated that appellant had pain in both hands, wrists, forearms and right shoulder and again diagnosed her with overuse syndrome bilateral upper extremities. Dr. Holzaepfel placed appellant on a limited-duty status with keying 15 to 45 minutes at a time. He noted that appellant's period of disability was from September 15 to 27, 1995 and that appellant could resume regular work on September 28, 1995.

By letter dated October 25, 1995, the Office of Workers' Compensation Programs advised appellant that the medical evidence submitted needed clarification. The Office requested appellant to have her physician provide a more specific diagnosis of what type of

condition appellant actually had because "soft tissue overuse syndrome of the bilateral upper extremities was a very vague diagnosis." The Office also noted that there were no objective findings to support appellant's subjective complaints of discomfort.

Appellant responded by submitting a medical evaluation report from a work-hardening program performed by Sonia Smith, an occupational therapist. This evaluation contained: outpatient evaluation forms dated September 21, 1995; progress records dated September 21, 22, 25 and 28 and October 4, 10 and 19, 1995; physical medicine treatment records diagnosing appellant with bilateral forearm tendinitis (flexion/extension) dated September 26 and October 19, 1995; the home program dated October 10, 1995; the physical medicine discharge summary dated October 19, 1995; and the patient's history form dated September 21, 1995 and signed by appellant.

Appellant responded to the Office's request for clarification by attaching the patient's medical referral dated September 15, 1995 and signed by Dr. Holzaepfel, as well as the physical medicine telephone orders dated September 27, 1995 and signed by both Dr. Holzaepfel and Ms. Smith. In these documents, Dr. Holzaepfel provided appellant with a more specific diagnosis of bilateral forearm tendinitis (flexion/extension) for which appellant was previously treated for by Ms. Smith while in the work-hardening program. Dr. Holzaepfel had previously diagnosed appellant with soft tissue overuse syndrome bilateral upper extremities and checked a "yes" box on the attending physician's report (Form CA-20) that he believes appellant's condition was caused or aggravated by her federal employment and noted that this was "due to repetitive work of [patient] per her description at work."

By decision dated December 22, 1995, the Office denied appellant's claim for compensation benefits on the grounds that the evidence of record failed to establish that the claimed medical condition or disability was causally related to factors of appellant's employment. The Office stated that "the medical evidence currently on file fails to support the claim as it lacks results of any diagnostic tests; specific diagnosis; and the physician's opinion, supported by objective findings, as to the medical connection between the disability and factors of the claimant's employment."

The Board finds that this case is not in posture for decision and must be remanded for further evidentiary development.

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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

[1] 5 U.S.C. §§ 8101-8193.

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

essential elements of each 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 the 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.[4] The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[5] 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,[6] must be one of reasonable medical certainty[7] 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.[8] Merely because a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease or condition became apparent during the period of employment nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relationship.

In the present case, appellant submitted medical evidence from Dr. Holzaepfel, a Board-certified orthopedic surgeon, who initially diagnosed appellant with soft tissue overuse syndrome bilateral upper extremities. Appellant identified repetitive keying on a 10-key console, sorting, lifting, twisting and grabbing bundles of mail as the employment factors which caused or aggravated her condition. Dr. Holzaepfel stated that "he thought we were dealing with a soft tissue problem involving the flexor and extensor tendons of both upper extremities, classic overuse syndrome." He also noted that appellant had pain in both hands, wrists, forearms and right shoulder which was caused or aggravated by her federal employment and that this was "due to the repetitive work of [appellant] per her description at work." He advised appellant to take 10 days off of work, go through a work-hardening program and explained how he was concerned

[3] *Ruthie M. Evans*, 41 ECAB 416 (1990); *Joe D. Cameron*, 41 ECAB 153 (1989).

[4] *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[5] The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

[6] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[7] *See Morris Scanlon*, 11 ECAB 384-85 (1960).

[8] *See William E. Enright*, 31 ECAB 426, 430 (1980).

about long-term ability for appellant to continue her type of job given the demands placed on her and her current symptoms. Additionally, Dr. Holzaepfel responded to the Office's October 25 and November 28, 1995 requests for clarification of the diagnosis presented by diagnosing bilateral forearm tendinitis (flexion/extension).[9] He previously noted that this condition was caused or aggravated by appellant's federal employment because of repetitive work.

The Board finds that while Dr. Holzaepfel's medical documents as a whole are insufficient to meet appellant's burden of proof as he did not provide medical rationale explaining why and how he reached his conclusion, the medical evidence submitted are sufficient to require further development from the Office as it contains a definite opinion on causal relationship and some supporting analysis based on objective findings relating appellant's diagnosed condition of bilateral forearm tendinitis (flexion/extension) to her specific employment duties.[10]

On remand the Office should undertake further development of the medical evidence by referring appellant, a statement of accepted facts and a list of questions to a Board-certified physician in the appropriate field for an opinion with medical rationale regarding the relationship between appellant's diagnosed condition of bilateral forearm tendinitis (flexion/extension) and her specific employment factors. After this and other such development as the Office deems necessary, a *de novo* decision shall be issued.[11]

The decision of the Office of Workers' Compensation Programs dated July 10, 1995 is set aside and this case is remanded for further development consistent with this opinion.

Dated, Washington, D.C.
April 23, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott

[9] While the evidence of record also contains reports from an occupational therapist, these reports do not constitute medical evidence as they were not prepared by a physician; *see* 5 U.S.C. § 8101(2); *Jerre R. Rinehart*, 45 ECAB 518 (1994); *Barbara J. Williams*, 40 ECAB 649 (1988).

[10] *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

[11] *Id.*

Alternate Member