

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD ROETHLER and U.S. POSTAL SERVICE,
POST OFFICE, New Hampton, Iowa

*Docket No. 97-268; Submitted on the Record;
Issued December 15, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issues are: (1) whether appellant has met his burden of proof in establishing that he developed carpal tunnel syndrome due to factors of his federal employment; and (2) whether the Office of Workers' Compensation Programs abused its discretion by refusing to reopen appellant's claim for consideration of the merits on July 3, 1996.

The Board has duly reviewed the case on appeal and finds it is not in posture for decision.

Appellant filed a claim on May 30, 1995 alleging that he had developed bilateral carpal tunnel syndrome due to factors of his federal employment. By decision dated July 26, 1995, the Office denied appellant's claim finding that he failed to submit the necessary medical evidence establishing a causal relationship between his diagnosed condition and factors of his federal employment. Appellant requested reconsideration and by decision dated December 18, 1995, the Office denied modification of its July 26, 1995 decision. Appellant requested reconsideration on April 15, 1996 and by decision dated July 3, 1996 the Office declined to reopen appellant's claim for review of the merits.¹

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

¹ Following appellant's appeal to the Board on October 8, 1996, the Office issued an additional decision on March 5, 1997 determining whether to review appellant's claim on the merits. The Board and the Office may not simultaneously have jurisdiction over the same case. Because the Office must review its prior decision in order to determine whether appellant submitted additional new and relevant evidence, the Office may not issue a decision regarding the same issue on appeal before the Board. The Office therefore did not have the authority to issue its May 5, 1997 decision. *Arlonia B. Taylor*, 44 ECAB 591, 597 (1993).

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 evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.²

In this case, the Office accepted that appellant's employment required repetitive movements in casing mail, tying mail and loading mail. Appellant also submitted medical evidence establishing the condition of bilateral carpal tunnel syndrome. However, the Office found that appellant had not submitted sufficient medical evidence to establish a causal relationship between appellant's diagnosed condition and his employment factors.

Appellant submitted a series of medical notes in support of his claim for carpal tunnel syndrome. These notes indicated on February 24, 1995 appellant had sustained multiple lacerations of his left hand. On April 4, 1995 Dr. Ann H. Schutt, a physician Board-certified in physical medicine and rehabilitation, noted that appellant had a healed laceration and that his thumb was blackened from poking it with a screwdriver. She stated that appellant's left hand was very awkward not only from his shoulder condition but also because of his carpal tunnel. On April 19, 1995 Dr. Schutt diagnosed carpal tunnel syndrome bilaterally worse on the left than the right. Appellant underwent a left carpal tunnel release on May 2, 1995.

In a report dated September 8, 1995, Dr. Schutt noted appellant's employment duties and stated that the repetitive nature of his work tended to lead to carpal tunnel syndrome. She stated, "It is my belief that this patient's carpal tunnel syndrome in both hands ... is related to the repetitive type of work that he does at the [employing establishment]...."

These reports and notes contain a history of injury, diagnosis and an opinion that appellant's carpal tunnel syndrome was caused by the accepted employment factors. While these reports are not sufficient to meet appellant's burden of proof, they do raise an uncontroverted inference of causal relation between appellant's accepted employment factors and his diagnosed condition and are sufficient to require the Office to undertake further development of appellant's claim.³

The Office denied appellant's claim because Dr. Schutt did not address the causal relationship between appellant's traumatic injuries to his left hand, the lacerations and the blow by the screwdriver. Nor did Dr. Schutt explained what impact appellant's bilateral carpal tunnel syndrome had on his left shoulder. On remand the Office should prepare a statement of accepted facts and a list of specific questions and refer appellant to an appropriate Board-certified specialist to determine whether appellant's diagnosed condition is causally related to his

² *Lourdes Harris*, 45 ECAB 545, 547 (1994).

³ *John J. Carlone*, 41 ECAB 354, 358-60 (1989).

accepted employment factors. After this and such other development as the Office deems necessary the Office should issue an appropriate decision.⁴

The decision of the Office of Workers' Compensation Programs dated December 18, 1995 is hereby set aside and remanded for further development consistent with this opinion.

Dated, Washington, D.C.
December 15, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

⁴ Due to the disposition of this issue, it is not necessary for the Board to address whether the Office abused its discretion by refusing to reopen appellant's claim for review of the merits on July 3, 1996.