U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BILLY C. LEMON, JR. and DEPARTMENT OF THE AIR FORCE, ELMENDORF AIR FORCE BASE, Anchorage, Alas.

Docket No. 96-1287; Submitted on the Record;
Issued February 20, 1998

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he sustained bilateral carpal tunnel syndrome due to factors of his federal employment.

On October 20, 1994 appellant, then a 47-year-old electrical engineering technician, filed a notice of occupational disease alleging that he developed bilateral carpal tunnel syndrome due to the extended, daily computer keyboard work while in the performance of duty.

On October 31, 1994 Dr. Adrian Ryan, a Board-certified orthopedic surgeon and appellant's treating physician, diagnosed carpal tunnel syndrome and checked "yes" to indicate that the condition was caused or aggravated by an employment activity.

The employing establishment subsequently supplied a description of appellant's duties and typed reports prepared by appellant, to indicate the amount of keyboarding required by appellant's position. The employing establishment asserted that appellant was not required to type over two lines. Appellant's supervisor, John C. Copeland, contradicted appellant's claim that his position required extensive keyboard use and noted that appellant reported hand problems stemming from work he did at a log cabin he was building. He indicated that appellant typed single words and, at most, two lines when performing his duties. A statement from Robert J. Rollins, a supervisor, also indicated that keyboard usage was a minimal requirement of appellant's job.

On December 1, 1994 the Office of Workers' Compensation Programs requested additional information, including a medical opinion addressing how specific factors of employment contributed to appellant's condition with a history of all hand/wrist activities and whether they contributed to the condition. Appellant was given 60 days to provide the information.

On December 10, 1994 appellant responded that he spent 80 to 85 percent of his time at work keyboarding.

The Office subsequently requested additional information regarding that amount of keyboarding required in his position and the effort appellant expended at his log cabin. It again requested supporting medical evidence.

On December 17, 1994 Dr. Morris R. Horning, a physician Board-certified in physical medicine and rehabilitation, stated that "[appellant] reports to me that he has been doing fairly vigorous computer work for eight years. I would agree that this work activity … in the absence of any other trauma or repetitive activity, is a likely significant contributor to his carpal tunnel syndrome bilaterally."

Appellant then submitted statements from Terry Van Zanten and from an unidentified person indicating that they assisted appellant in constructing a log cabin, but that appellant's participation was limited to supervising and running a snow machine.

On January 4, 1995 appellant's coworker, Roy W. Pace, indicated that he witnessed extensive typing by appellant at the workplace between 1987 and 1993. He stated that 80 percent of their work was data entry and that a majority of this involved inputting detailed descriptions into the computer.

On January 12, 1995 appellant indicated that he was not building a log cabin, cutting down trees or skinning logs, and that he could not recall an incident resulting in a loss of his gripping ability.

Coworkers William Keays and Terry Holt indicated on January 15, 1995 that appellant spent 40 percent of his time retrieving and entering data on a computer.

On January 19, 1995 Dr. Ryan stated that "I have received [appellant's] work description and my interpretation is that his daily work has contributed to the carpal tunnel syndrome. However, I am not able to document a visit with the patient so that I can watch him each day and confirm the use of his upper extremities."

On February 3, 1995 Dr. Ronald A. Nelson, an employing establishment physician, stated that it could not be determined whether appellant's carpal tunnel syndrome was occupationally related. He noted that appellant's activities operating his computer and working with hand tools outside of work were risk factors causing a controversy.

On March 21, 1995 Mr. Rollins, a supervisor, reported that on July 1994 he helped appellant roll and stack logs for the purpose of building a cabin.

In a decision dated May 9, 1995, the Office denied appellant's claim on the basis that he failed to establish fact of injury. In an accompanying memorandum, the Office noted that appellant's assertions that he spent extensive time keyboarding in the performance of duty and that his activities in building a log cabin or logging were limited and were contradicted by

evidence supplied by the employing establishment. It, therefore, determined that appellant failed to establish fact of injury.

On May 30, 1995 appellant requested a formal hearing. In support, appellant submitted photographs taken of his property which indicated he did not build a log cabin and a letter from Mr. Van Zanten indicating the same.

On August 23, 1995 appellant supplied a written statement disputing that his supervisor had any knowledge of his activities on his private property regarding a log cabin. Appellant submitted copies of reports he prepared which required typing and stated that typing was integral to his job.

A hearing was also held on August 23, 1995. Appellant testified that his job required lots of typing. He stated that the typing was massive from 1987 through 1990 due to a transition from written orders to computerized ones. Appellant indicated that from 1992 through 1994 he typed 5 to 6 hours per day on average. He stated that the typing could be detailed and that his work schedule varied. Appellant denied building a log cabin and stated that he stacked and rolled logs only once. He stated that his participation in the log cabin was limited to operating a snow machine and supervision.

In a decision dated January 26, 1996, the Office hearing representative found that the claimant failed to submit medical evidence establishing that his carpal tunnel syndrome was caused by work factors. She stated that while the physicians of record provided diagnoses, they failed to provide opinions on how appellant's employment caused his condition. The hearing representative discredited Dr. Horning's opinion on the basis that he did not provide a history of the claimant's specific job duties to which appellant alleged contributed to or caused his condition and the specific employment factors identified by appellant. Consequently, the hearing representative affirmed the Office's May 9, 1995 decision.

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]

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;[3] (2) a

[1] 5 U.S.C. §§ 8101-8193.

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

[3] *See Ronald K. White*, 37 ECAB 176, 178 (1985).

factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;[4] 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[5] or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.[6]

The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[7] 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, 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 claimant.[8]

In the present case, Dr. Ryan, a Board-certified orthopedic surgeon and appellant's attending physician, indicated that "I have received [appellant's] description and my interpretation is that his daily work has contributed to the carpal tunnel syndrome. However, I am not able to document a visit with the patient so that I can watch him each day and confirm the use of his upper extremities." Dr. Horning, a physician Board-certified in physical medicine and rehabilitation, stated that "I would agree that this work activity … in the absence of any other trauma or repetitive activity, is a likely significant contributor to his carpal tunnel syndrome, bilaterally.

The Board finds that this evidence is sufficient to require further development of the record.[9] The Board also notes that there is no medical evidence refuting causal relationship in this case.[10]

Although the medical evidence submitted by appellant is not sufficient to meet his burden of proof, the medical evidence of record raises an uncontroverted inference of causal relationship between appellant's upper extremity condition and his specific employment duties, and is sufficient to require further development of the case record by the Office.[11]

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[4] *See John A. Snowberger*, 34 ECAB 1262, 1271 (1983); *Walter D. Morehead*, 31 ECAB 188, 194 (1979); *Rocco Izzo*, 5 ECAB 161, 164 (1952).

[5] *See Georgia R. Cameron*, 4 ECAB 311, 312 (1951); *Arthur C. Hamer*, 1 ECAB 62, 64 (1947).

[6] *See generally Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

[7] *See Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959).

[8] *James Mack*, 43 ECAB 321 (1991).

[9] *John J. Carlone*, 41 ECAB 354 (1989).

[10] *See Earnest Reese, Jr.*, 32 ECAB 1508, 1510 (1981).

[11] *Reba L. Cantrell*, 44 ECAB 660 (1993).

On remand, the Office should further develop the medical evidence by obtaining a rationalized medical opinion on whether appellant has bilateral carpal tunnel syndrome causally related to identified factors of his federal employment. After such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

The decision of the Office of Workers' Compensation Programs dated January 25, 1996 is hereby set aside and remanded for further development consistent with this opinion.

Dated, Washington, D.C.
February 20, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member