

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of IRMA J. MORRISON and DEPARTMENT OF THE NAVY,
NAVAL PUBLIC WORKS CENTER, Pensacola, FL

*Docket No. 98-1360; Submitted on the Record;
Issued December 7, 1999*

DECISION and ORDER

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

The issue is whether appellant met her burden to establish that she sustained an occupational disease causally related to her federal employment.

On October 24, 1996 appellant, then a 49-year-old motor vehicle operator, filed a notice of occupational disease, alleging that she suffered carpal tunnel syndrome as a result of operating vehicles and other machinery in the course of her federal employment. Appellant stated that she became aware of the disease or illness, and realized that it was caused or aggravated by her employment on October 27, 1992. Appellant reported the condition to her supervisor on November 26, 1996. Although the employing establishment indicated that appellant did not stop working, it also stated that appellant returned to work on January 10, 1997.

On October 15, 1992 Dr. Dale T. Zorn, a Board-certified orthopedic surgeon and appellant's treating physician, noted carpal tunnel symptoms on appellant's right side. He diagnosed carpal tunnel syndrome.

On March 13, 1993 Dr. Zorn indicated that appellant used a splint on her right hand for carpal tunnel syndrome. He noted continued decreased sensation of the median nerve.

On July 16, 1993 Dr. Zorn stated that appellant continued to exhibit carpal tunnel syndrome in the right hand, particularly when driving.

On November 7, 1996 Dr. Zorn treated appellant for symptoms of right carpal tunnel syndrome. He indicated that he diagnosed the condition in 1992 with nerve conduction studies. Dr. Zorn stated that appellant would undergo a right carpal tunnel decompression.

On November 14, 1996 Dr. Zorn stated that appellant complained of symptoms along the median nerve distribution of the right hand and stated that appellant related the symptoms to a work injury. He indicated that appellant's October 27, 1992 nerve conduction studies revealed

right median neuropathy consistent with right carpal tunnel syndrome. Dr. Zorn recommended a right carpal tunnel decompression.

On November 26, 1996 Dr. Zorn's examination revealed decreased sensation on the medial nerve distribution. He also noted thenar atrophy and pain on flexion and extension of the wrist. Dr. Zorn indicated that these symptoms were present since October 15, 1992. He again noted that nerve conduction studies were positive and stated that appellant would undergo carpal tunnel decompression.

On December 11, 1996 Dr. Zorn again diagnosed right carpal tunnel syndrome. He indicated that appellant underwent surgery on December 10, 1996 for a right carpal tunnel decompression and neurolysis of the right median nerve.

On December 20, 1996 Dr. Zorn indicated that he saw appellant for a follow up of her right carpal tunnel decompression which was performed on December 10, 1996. He indicated that the wound was well healed. Dr. Zorn also stated that appellant was beginning to demonstrate carpal tunnel syndrome on the left hand.

On February 6, 1997 Dr. Radcliffe J. Coyle stated that appellant was suffering from overuse of her left hand due to her wrist surgery.

On September 16, 1997 the Office requested additional information including a comprehensive medical report from appellant's physician addressing the relationship between her federal employment and her condition.

On October 30, 1997 Dr. Zorn indicated that appellant utilized a splint on the left upper extremity for symptoms of carpal tunnel syndrome. He also noted that appellant underwent a right carpal tunnel decompression.

By decision dated November 5, 1997, the Office denied appellant's claim because it was not filed in a timely manner. The Office indicated that, according to appellant's notice of occupational disease, appellant's injury or exposure culminated on October 27, 1992 yet she did not file her claim until October 24, 1996. The Office further indicated that there was no evidence that appellant's immediate supervisor had actual knowledge of the injury within 30 days of its occurrence.

On November 10, 1997 Dr. Zorn stated that although all the exact causes of carpal tunnel syndrome are not known, appellant's "... symptoms may be likely (sic) have been aggravated and precipitated by her work activities." Dr. Zorn indicated that his conclusion was based on the history provided.

Appellant subsequently requested reconsideration.

By decision dated December 10, 1997, the Office rejected appellant's claim because the evidence of record failed to establish a causal relationship between the claimed carpal tunnel syndrome and factors of employment. In an accompanying memorandum, the Office vacated its November 5, 1997 decision rejecting appellant's claim as untimely. The Office found that

because appellant continued to be exposed to employment factors she alleged to have caused her condition, her claim was timely filed. The Office, however, found that appellant failed to establish a causal relationship between the claimed condition and factors of employment. In this regard, the Office found that the opinion of Dr. Zorn was speculative, unrationalized, and not based upon a specific and accurate history of employment conditions.

On February 6, 1998 appellant requested reconsideration. In support, appellant submitted a January 29, 1998 report from Dr. Zorn. Dr. Zorn stated that he had treated appellant for carpal tunnel syndrome since 1992. He stated that he "... circled those activities on the enclosed job description which I feel could have precipitated her carpal tunnel syndrome." The activities circled were dumping trash cans, sweeping streets, loading and unloading cargo, carrying specific cargo, changing tires and washing vehicles. Dr. Zorn further stated that, "...she drives various heavy vehicles as part of her job, this also could attribute (sic) to her carpal tunnel."

By decision dated February 24, 1998, the Office indicated that Dr. Zorn's opinion remained speculative. It found that the medical evidence remained insufficient to establish a causal relationship between appellant's condition and her employment activities. The Office, therefore, found that the new evidence received in support of the application for review was insufficient to warrant modification of the prior decision.

The Board finds that appellant failed to establish she sustained an occupational disease causally related to her federal employment.

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 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.¹ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.² 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,³ must be one of reasonable medical certainty,⁴ and must be supported by medical

¹ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

² The Board held that, in certain cases, where the causal connection is obvious, expert testimony may not be necessary; see *Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not one of obvious casual connection.

³ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁴ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

In this case, appellant has submitted only two medical reports indicating that her carpal tunnel syndrome is causally related to factors of her federal employment. On January 10, 1997 Dr. Zorn, appellant's treating physician and a Board-certified orthopedic surgeon, stated that although all the exact causes of carpal tunnel syndrome are not known, appellant's "... symptoms may be likely (sic) have been aggravated and precipitated by her work activities." Dr. Zorn's opinion, however, is speculative and he fails to explain his conclusion with any medical rationale. A medical opinion which is speculative and which is not rationalized cannot meet appellant's burden of proof of establishing an occupational disease causally related to her federal employment.⁶ On January 29, 1998 Dr. Zorn indicated that he would circle "... those activities on the enclosed job description which I feel could have precipitated her carpal tunnel syndrome." The activities he circled included dumping trash cans, sweeping streets, loading and unloading cargo, carrying specific cargo, changing tires, and washing vehicles. Dr. Zorn also stated that appellant "... drives various heavy vehicles as part of her job, this also could attribute (sic) to her carpal tunnel." Dr. Zorn's January 29, 1998 opinion, however, is also devoid of any medical rationale supporting his conclusion. Moreover, Dr. Zorn provided a speculative opinion by stating only that the listed job duties "could" have precipitated or contributed to appellant's carpal tunnel syndrome. Consequently, because Dr. Zorn's January 29, 1998 opinion is both unexplained and speculative it is not sufficient for appellant to sustain her burden of proof of establishing an occupational disease causally related to her federal employment.⁷

⁵ See *James D. Carter*, 43 ECAB 113 (1991); *George A. Ross*, 43 ECAB 346 (1991); *William E. Enright*, 31 ECAB 426, 430 (1980).

⁶ *Alberta S. Williamson*, 47 ECAB 569 (1996); *Frederick H. Coward, Jr.*, 41 ECAB 843 (1990).

⁷ *Id.*

The decisions of the Office of Workers' Compensation Programs dated February 24, 1998 and December 10, 1997 are affirmed.

Dated, Washington, D.C.
December 7, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member