

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TAMARA L. MARTIN and U.S. POSTAL SERVICE,
POST OFFICE, Little Rock, AR

*Docket No. 98-1430; Submitted on the Record;
Issued December 15, 1999*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has established that her fibromyalgia is due to factors of her employment.

On October 20, 1997 appellant, then a 34-year-old CFS clerk, filed a claim¹ for fibromyalgia indicating that on August 6, 1997 she realized her condition was due to her keying six hours per day.² Appellant also indicated on the form that the new FFT caused her extreme pain in her back, neck, shoulders, legs and hips. In a statement appellant described the duties required of her position which she believed aggravated her fibromyalgia. The employing establishment contested the claim noting that appellant had been on light duty, not working overtime, had restrictions on her keying and her time on the mechanized terminal (MT) was reduced from two hours per day to zero hours.

In a report dated October 17, 1996, Dr. James W. Logan, a Board-certified internist and rheumatologist, diagnosed Raynaud's phenomenon and carpal tunnel syndrome. He indicated that working at night, stressful situations and things that disturb one's usual sleep pattern tend to exacerbate fibromyalgia syndrome. Dr. Logan noted that appellant wanted a daytime job to help her sleep pattern and her stress level.

¹ This was assigned claim number A16-306355.

² Appellant filed a claim for a recurrence of disability commencing March 1996 due to her April 1990 employment injury. Appellant indicated that she started keying 8 to 10 hours per day in April 1994. This was assigned claim number A16-189370 and denied on June 26 and December 3, 1996. The Office of Workers' Compensation Programs noted that the original injury had occurred on August 10, 1990 and had been accepted for left carpal tunnel syndrome. On April 4, 1997 appellant filed an occupational injury claim alleging that in March 1996 she first realized her tendinitis was due to the repetitive work and that the keying on the MT aggravated her pain. This was assigned claim number A16-295555 which the Office denied on July 11, 1997 and appellant appealed to the Employees' Compensation Appeals Board.

In a letter dated August 11, 1997, Dr. Earl Peebles, an attending Board-certified orthopedic surgeon, opined that the position of window clerk was not prohibited by her job restrictions.

In a letter dated August 28, 1997, Dr. Logan diagnosed appellant's upper extremity pain and stiffness was due to fibromyalgia, as indicated in his October 17, 1996 letter. Dr. Logan opined that appellant's fibromyalgia is aggravated by the repetitive motion required of her job. He also indicated that appellant suffered from myofascial pain syndrome, which is a complication of fibromyalgia syndrome.

By letter dated December 10, 1997, the Office informed appellant that the evidence submitted was insufficient to establish her claim and advised her as to the type of evidence required.

By decision dated March 9, 1998, the Office found that fact of injury was not established. The Office found that the medical opinions were based on an inaccurate and incomplete work history as appellant has worked days since 1991 and has not performed any repetitive duties since the beginning of 1996.

The Board finds that appellant has not established that her fibromyalgia is due to factors of her employment.

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his or her claim, including the fact 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.⁴ 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.⁵ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.⁶ 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

³ 5 U.S.C. §§ 8101-8193.

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ 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.

claimant,⁷ must be one of reasonable medical certainty,⁸ 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.⁹

In the present case, the only medical evidence appellant submitted that addresses the relation between her fibromyalgia is the August 28, 1997 and October 17, 1996 reports from Dr. Logan. In the earlier report, Dr. Logan stated that working at night may exacerbate her fibromyalgia syndrome and that a daytime position would help her sleep pattern and stress level. Dr. Logan, in his August 28, 1997 report, indicated that appellant's fibromyalgia was aggravated by the repetitive work required of her position. Neither of Dr. Logan's reports is sufficient to meet appellant's burden. In the October 17, 1996 report, Dr. Logan opined that working nights exacerbated appellant's fibromyalgia. The employing establishment submitted evidence that appellant has not worked nights since 1991. Dr. Logan, in his August 28, 1997 report, opined that appellant's repetitive duties at work aggravated her fibromyalgia without identifying the duties which required repetitive motion. In addition, the employing establishment indicated that appellant had restrictions on her keying. Dr. Logan's reports are based on an inaccurate and incomplete factual history since he was not aware that appellant had been working days since 1991 and she had been on light-duty work which restricted her repetitive duties. As there is no medical evidence of record, based upon a complete and accurate factual background, showing causal relationship between appellant's claimed fibromyalgia syndrome to her employment, she has failed to meet her burden of proof.

The decision of the Office of Workers' Compensation Programs dated March 9, 1998 is hereby affirmed.

Dated, Washington, D.C.
December 15, 1999

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁸ *See Morris Scanlon*, 11 ECAB 384-85 (1960).

⁹ *See William E. Enright*, 31 ECAB 426, 430 (1980).