

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID N. AUSTIN, JR. and DEPARTMENT OF THE NAVY,
PUGET SOUND NAVAL SHIPYARD, Bremerton, Wash.

*Docket No. 97-1241; Submitted on the Record;
Issued January 4, 1999*

DECISION and ORDER

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

The issue is whether appellant has established a shoulder or arm condition causally related to factors of his federal employment.

In the present case, appellant, an apprentice insulator, filed a claim on January 3, 1996 alleging that he sustained pain and numbness in his shoulders and arms causally related to his federal employment. Appellant indicated in a narrative statement that he attributed his condition to use of reciprocating saws, chipping guns, and other vibrating tools in the performance of duty commencing March 1993.

In a decision dated March 25, 1996, the Office of Workers' Compensation Programs denied the claim on the grounds that the medical evidence was not sufficient to establish the claim.¹ Appellant requested reconsideration of his claim, and by decision dated August 12, 1996, the Office denied modification of the prior decision. By decision dated December 17, 1996, the Office found that the evidence was insufficient to warrant merit review of the claim.

The Board finds that appellant has not established a shoulder or arm condition causally related to factors of his 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

¹ In the memorandum accompanying the decision, the Office states that the issue is whether the claimed condition is causally related to the injury of November 1, 1994 (the date appellant reported he first became aware of his condition). There is no indication, however, that the Office accepted an injury in this case; the Office accepted only that appellant used vibrating tools in the performance of duty. The issue is whether appellant has established an injury causally related to the identified factors of his federal employment.

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.² The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and his federal employment.³ Neither the fact that the condition became manifest during a period of federal employment, nor the belief of appellant that the condition was caused or aggravated by his federal employment, is sufficient to establish causal relation.⁴

In the present case, appellant received treatment at the employing establishment health unit on December 5, 1995, with complaints of pain in the shoulders and arms for more than one year. The employing establishment physician, Dr. James D. Krueger, diagnosed bilateral overuse syndrome and placed appellant on light duty. Appellant began receiving treatment from Dr. A. Jeffrey Bialer, a family practitioner, who noted in a report dated December 6, 1995 that appellant had been working with vibrating impact tools for the prior three years. Dr. Bialer diagnosed bilateral impingement syndrome, lateral epicondylitis, and carpal tunnel syndrome. He continued to provide these diagnoses in reports dated March 27, April 25 and May 28, 1996. With respect to the diagnosis of carpal tunnel syndrome, the Board notes that the record contains conflicting evidence as to this condition.⁵ Although Dr. Bialer reported positive Phalen's and Tinel's signs, the only evidence regarding an EMG and nerve conduction velocity is dated August 6, 1996 from Dr. Mohammad Saeed, a radiologist, who reported a normal study with no evidence of carpal tunnel syndrome. Dr. Bialer stated in an August 16, 1996 report that he did not feel an EMG was needed in all cases of carpal tunnel for diagnosis, but he did not provide further explanation or specifically refer to Dr. Saeed's report.

Moreover, the medical evidence does not contain a reasoned opinion as to causal relationship between a diagnosed condition and the identified factors of employment. In a March 27, 1996 form report, Form CA-20, Dr. Bialer checked a box "yes" that the diagnosed conditions were causally related to employment, which is of little probative value on the issue of causal relationship.⁶ In a report dated August 16, 1996, Dr. Bialer stated that he did believe appellant had an employment-related condition involving the shoulders, elbows, and wrists, because "[t]hese type[s] of conditions are recognized to be related to [the] type of work he has been doing, and are not contributed to by any hobbies or other home activities." The Board finds

² *Victor J. Woodhams*, 41 ECAB 345 (1989).

³ *See Walter D. Morehead*, 31 ECAB 188 (1979).

⁴ *Manuel Garcia*, 37 ECAB 767 (1986).

⁵ The Office's procedures state that the clinical findings of carpal tunnel syndrome include positive Phalen's and Tinel's sign, neurological abnormalities, decreased nerve conduction velocity, and decreased muscle motor activity measured by electromyography (EMG). Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.8 (September 1996).

⁶ *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).

that this is not a sufficiently detailed or reasoned opinion to establish a condition causally related to federal employment. Dr. Bialer did not clearly explain how the use of vibrating tools during the period alleged by appellant caused a specific diagnosed condition such as impingement syndrome or lateral epicondylitis. There is no medical evidence of record containing a reasoned opinion, based on a complete and accurate factual and medical background, that appellant sustained a specific injury causally related to the identified employment factors. For example, Dr. Robert W. Leyen, an orthopedic surgeon, reported in a May 30, 1996 report that appellant felt his use of vibratory tools contributed to his symptoms, but Dr. Leyen did not himself provide an opinion on this issue.

The Board accordingly finds that the medical evidence of record is not sufficient to meet his burden of proof in establishing an occupational injury in this case.⁷

The decisions of the Office of Workers' Compensation Programs dated December 17, August 12 and March 25, 1996 are affirmed.

Dated, Washington, D.C.

January 4, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

⁷ The Board is limited to review of evidence that was before the Office at the time of the December 17, 1996 Office decision, and evidence submitted after this date cannot be considered on this appeal. 20 C.F.R. § 501.2(c).