

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SUSIA H. MOYER and DEPARTMENT OF THE NAVY, NAVAL  
RESEARCH LABORATORY, STENNIS SPACE CENTER, Miss.

*Docket No. 97-647; Submitted on the Record;  
Issued June 4, 1999*

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DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant sustained bilateral carpal tunnel syndrome in the performance of duty causally related to factors of her federal employment.

On June 28, 1994 appellant, then a 59-year-old personnel clerk, filed an occupational disease claim alleging that she sustained carpal tunnel syndrome which she attributed to typing "most of the day" on a computer keyboard.

In a fitness-for-duty report dated June 23, 1994, Dr. Robert U. Weiss, Jr., a family practitioner specializing in plastic surgery, diagnosed bilateral carpal tunnel syndrome and, in response to the question as to whether the condition was job related, he wrote a question mark.

In written statements dated July 8 and October 19, 1994, appellant's supervisor, Eleanor Schloemer, stated that appellant did not use a computer keyboard most of the time as she alleged and that her use of a typewriter was minimal. She related that appellant had a hobby, sewing, and that appellant had stated at work that she sewed at home to supplement her income. Ms. Schloemer stated that appellant had made alterations to clothes for several coworkers, relating appellant's statement that she had "stayed up all hours of the night" sewing dresses for her daughter's wedding, and she noted that appellant stated that she sewed all her Christmas gifts which required two weeks to complete. She stated that appellant brought items to the office to sell such as napkins and tablecloths. The employing establishment provided a typed document, retrieved from appellant's computer at work on January 13, 1994, titled "Susie Sewing Alterations, Weddings, Costumes" listing appellant's name, address, and telephone number and prices for performing various types of sewing alterations and for sewing various types of garments.

In clinical notes dated July 11, 1994, Dr. Charles W. Krieger, Jr., a Board-certified orthopedic surgeon, provided findings on examination and diagnosed bilateral carpal tunnel syndrome. Dr. Krieger did not provide an opinion as to the cause of the condition.

In a written statement dated August 11, 1994, appellant stated that she did not advertise her sewing services and had made only one wedding dress, not several dresses as Ms. Schloemer had stated. She stated that her sewing was performed as a hobby and "to help people out," not to earn a living. Appellant stated that she performed clothing alterations for two friends at work and sewed gifts for one week before Christmas while on leave. She stated that she had not made any garments or performed any alterations since her hands began hurting. Appellant also stated that Ms. Schloemer was not generally available to accurately monitor the amount of time she spent on the computer. She stated that she used her wrists in everything she did at work, including taking 20 to 30 telephone calls a day and keeping a log of the calls.

In a form report dated August 18, 1994, Dr. Krieger diagnosed bilateral carpal tunnel syndrome and indicated by checking the block marked "yes" that the condition was employment related.

In a written statement dated September 11, 1994, appellant denied that she had a sewing business and indicated that the list of prices that she had prepared for various sewing services was written during a time when she was contemplating using her sewing skills to earn money through her sewing, but that she had later decided that her hand condition would prevent her from continuing to sew, even for a hobby.

In statements dated October 18 and 19, 1994, coworkers who performed the same job as appellant, Kimberly Hamby and Kim Lowless, stated that the job required approximately 10 to 20 minutes of typing on the computer keyboard on an average day and that use of a typewriter, for typing labels and addresses and some correspondence, was also minimal. In her statement, Ms. Lowless related that appellant had performed sewing services for her several times and that she had heard appellant state on several occasions that she sewed to supplement her income. She noted that appellant brought craft items to work to sell, had sewn her daughter's wedding dress and other dresses for the wedding party, and also altered her own clothes.

In a statement dated October 19, 1994, Colleen Sherman, a coworker, stated that in 1993 appellant had sewn a costume for her and had made alterations and repairs to three items of clothing.

In a statement dated October 19, 1994, coworker, Lou Ann Lott, stated that in June and December 1993 appellant had performed sewing alterations for her and made a formal gown for her daughter.

By decision dated November 16, 1994, the Office of Workers' Compensation Programs denied appellant's claim for compensation benefits on the grounds that the evidence of record did not establish that she sustained carpal tunnel syndrome in the performance of duty, as alleged.

By letter dated November 28, 1994, appellant requested an oral hearing before an Office hearing representative.

On September 13, 1995 a hearing was held before an Office hearing representative at which time appellant testified that she spent 80 to 100 percent of her time each day using a

computer. She testified that she had sewn only one dress, her daughter's wedding dress, in many years, and indicated that she sewed occasionally only for family and friends. Appellant testified that the witness statements concerning sewing services that she had performed involved sewing done in 1993 prior to the commencement of problems with her hands in April or May 1994.

At the hearing, appellant submitted two statements from her neighbors. In a statement dated December 2, 1994, Helen Smith stated that, to the best of her knowledge, appellant was not operating a small business from her home. In a letter dated December 13, 1994, Dr. Peter Ganley stated that it would have been obvious to him if appellant was operating a sewing business at home and noted that a neighborhood covenant prohibited the operation of home businesses.

In a statement dated November 15, 1995, appellant asserted that the statements of the coworkers who held the same position as appellant were not accurate in describing the amount of time spent using a computer as 10 to 20 minutes a day. She suggested that her coworkers performed tasks which varied from hers and that she performed more typing and keyboarding than they performed. Appellant described the various types of information which she entered into the computer database and asserted that the work could not be performed in 10 to 20 minutes a day. Appellant submitted a copy of her position description. Included among the duties were the tasks of typing various documents and entering data into a computer database. The position description did not indicate the amount of time that was spent on these tasks or an estimate of the percentage of time spent on these tasks.

In notes dated November 18, 1994, Dr. Krieger stated that appellant was able to perform light-duty work. He stated, "Her carpal tunnel syndrome, I think, is definitely work related. Probably not causative, but aggravated by the type of work that she does."

In a letter dated December 19, 1994, Dr. Krieger related that appellant had been under treatment for bilateral carpal tunnel syndrome since July 11, 1994 and her condition had been confirmed with electrical studies. He noted that appellant underwent a left carpal tunnel release on November 2, 1994 and he recommended the same procedure for her right wrist. Dr. Krieger provided a copy of a nerve conduction study which indicated the possibility of very mild bilateral carpal tunnel syndrome as well as a very mild right ulnar neuropathy. He stated "the enclosed information should provide all of the evidence you need to confirm that [appellant's] problems with her wrist are job related."

In a letter dated October 16, 1995, Dr. Krieger stated:

"It is my opinion that the carpal tunnel which [appellant] developed was related to her computer typing. The electrical studies that were done on [appellant's] wrist demonstrate changes in the nerve compatible with chronic compression which is due to the excessive typing. The fact that impulses are not being conducted as rapidly across the nerve as they should be is indicative of the damage. The nerve conduction study measures the rate of transmission and should fall within a normal range. In her case it did not."

By decision dated October 27, 1995, the Office hearing representative affirmed the Office's November 16, 1994 decision.

By letter dated October 24, 1996, appellant requested reconsideration of the denial of her claim and submitted additional evidence.

In a letter dated December 4, 1995, Dr. Krieger stated:

“In response to your conclusions regarding [appellant's] complaint, you noted that I failed to submit any medical rationale that would substantiate the complaint that [appellant's] carpal tunnel syndrome is work related. I am sure that you are well aware that the world literature regarding carpal tunnel syndrome is replete with case studies documenting the development of carpal tunnel syndrome in office workers who spend several hours a day working at computers and typewriters.

“Assuming [appellant] spends most of her eight hour day at the typewriter or computer, is it not logical to assume then that this is a repetitive type of activity which indeed could either aggravate or cause carpal tunnel problems? She certainly does not spend eight hours a day sewing.”

By decision dated November 6, 1996, the Office denied modification of its November 16, 1994 decision.

The Board finds that appellant has failed to meet her burden of proof to establish that she sustained bilateral carpal tunnel syndrome causally related to factors of her 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.<sup>1</sup> The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.<sup>2</sup> 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

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<sup>1</sup> See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

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

claimant,<sup>3</sup> must be one of reasonable medical certainty,<sup>4</sup> 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.<sup>5</sup>

In this case, appellant alleged that she sustained bilateral carpal tunnel syndrome which she attributed to using a computer keyboard and typewriter for most of the day in her job and taking telephone messages. She submitted evidence in support of her claim.

In a fitness-for-duty report dated June 23, 1994, Dr. Weiss, a family practitioner specializing in plastic surgery, diagnosed bilateral carpal tunnel syndrome and, in response to the question as to whether the condition was job related, he wrote a question mark. As he indicated that he did not know whether appellant's condition was causally related to her job, this report does not discharge her burden of proof.

In clinical notes dated July 11, 1994, Dr. Krieger, a Board-certified orthopedic surgeon, provided findings on examination and diagnosed bilateral carpal tunnel syndrome. He did not provide an opinion as to the cause of the condition and therefore this report does not establish that appellant's condition was employment related.

In a form report dated August 18, 1994, Dr. Krieger diagnosed bilateral carpal tunnel syndrome and indicated by checking the block marked "yes" that the condition was employment related. However, the Board has held that an opinion on causal relationship which consists only of checking "yes" to a form report question on whether the claimant's disability was related to the history given is of little probative value.<sup>6</sup> Without any explanation or rationale, such a report has little probative value and is insufficient to establish causal relationship.<sup>7</sup>

In notes dated November 18, 1994, Dr. Krieger stated, "Her carpal tunnel syndrome, I think, is definitely work related. Probably not causative but aggravated by the type of work that she does." However, he provided no indication that he knew the nature of appellant's job duties and he provided no medical rationale explaining why he believed that appellant's condition was work related. Therefore, this report is not sufficient to establish that appellant's bilateral carpal tunnel syndrome was employment related.

In a letter dated December 19, 1994, Dr. Krieger related that appellant had been under treatment for bilateral carpal tunnel syndrome since July 11, 1994 and her condition had been confirmed with electrical studies. He stated "the enclosed information should provide all of the evidence you need to confirm that [appellant's] problems with her wrist are job related."

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<sup>3</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>4</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

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

<sup>6</sup> *Deborah S. King*, 44 ECAB 203 (1992); *Donald W. Long*, 41 ECAB 142, 146 (1989).

<sup>7</sup> *Id.*

However, he did not provide a rationalized medical opinion, based upon a complete and accurate factual background, explaining how appellant's condition was employment related.

Therefore, this report is not sufficient to discharge appellant's burden of proof.

In a letter dated October 16, 1995, Dr. Krieger stated his opinion that appellant's carpal tunnel syndrome was related to her computer typing but he failed to provide medical rationale in support of his opinion. Therefore, this report is not sufficient to discharge appellant's burden of proof.

In a letter dated December 4, 1995, Dr. Krieger stated:

"In response to your conclusions regarding [appellant's] complaint, you noted that I failed to submit any medical rationale that would substantiate the complaint that [appellant's] carpal tunnel syndrome is work related. I am sure that you are well aware that the world literature regarding carpal tunnel syndrome is replete with case studies documenting the development of carpal tunnel syndrome in office workers who spend several hours a day working at computers and typewriters.

"Assuming [appellant] spends most of her eight hour day at the typewriter or computer, is it not logical to assume then that this is a repetitive type of activity which indeed could either aggravate or cause carpal tunnel problems? She certainly does not spend eight hours a day sewing."

Regarding Dr. Krieger's reference to medical literature concerning the condition of carpal tunnel syndrome, the Board has held that medical texts are of no evidentiary value in establishing the necessary causal relationship between a claimed condition and employment factors because such materials are of general application and are not determinative of whether the specifically claimed condition is related to the particular employment factors alleged by the employee.<sup>8</sup>

In his December 4, 1995 letter, Dr. Krieger based his opinion that appellant's condition was employment related on the history that he was given by appellant that she spent most of her day at work using a typewriter or computer keyboard. However, the evidence of record does not establish that appellant spends most of her day at these activities. In written statements dated July 8 and October 19, 1994, appellant's supervisor Ms. Schloemer, stated that appellant did not use a computer keyboard most of the time as she alleged and that her use of a typewriter was minimal. In statements dated October 18 and 19, 1994, coworkers who performed the same job as appellant, Ms. Hamby and Ms. Lowless, stated that the job required approximately 10 to 20 minutes of typing on the computer keyboard on an average day and that use of a typewriter, for typing labels and addresses and some correspondence, was also minimal. Appellant submitted a copy of her position description in support of her contention that she typed or used a computer keyboard most of the day. Included among the duties listed in the job description were the tasks

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<sup>8</sup> *Kathleen D. Walker*, 42 ECAB 603, 609-10 (1991).

of typing various documents and entering data into a computer database. However, the job description did not indicate the amount of time that was spent on these tasks and therefore does not establish that appellant performed these tasks most of the day as she alleged.

In addition to the issue as to how much of the day appellant spent on her computer and typing tasks, there is the issue of appellant's sewing activities as a possible factor in her hand condition. The employing establishment suggested that appellant's sewing hobby could be a cause of her condition. Appellant's supervisor related that appellant had spoken at work of her sewing hobby which she had used to supplement her income. She stated that appellant had made alterations to clothes for several coworkers and had brought items to work to sell such as napkins and tablecloths. The employing establishment provided a typed document, retrieved from appellant's computer at work on January 13, 1994, titled "Susie Sewing Alterations, Weddings, Costumes" listing appellant's name, address, and telephone number and prices for performing various types of sewing alterations and for sewing various types of garments. A coworker, Ms. Lowless, related that appellant had performed sewing services for her several times and that she had heard appellant state on several occasions that she sewed to supplement her income. Other coworkers, Ms. Sherman and Ms. Lott, provided statements noting that appellant had performed sewing services for them. Appellant stated that she had stopped sewing after her hands began to hurt and disputed the employing establishment's contention that her sewing could be a cause of her carpal tunnel syndrome.

The Board finds that the evidence of record is not sufficient to establish the amount of time that appellant was involved in her sewing activities. However, putting aside appellant's sewing activities, the Board finds that Dr. Krieger's opinion that appellant's carpal tunnel syndrome was job related is not based upon a complete and accurate factual background in regard to appellant's computer and typing activities at work and therefore his opinion is of diminished probative value and is insufficient to discharge appellant's burden of proof.

The decision of the Office of Workers' Compensation Programs dated November 6, 1996 is affirmed.

Dated, Washington, D.C.  
June 4, 1999

George E. Rivers  
Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member