

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LISA E. CLAYTOR and DEPARTMENT OF VETERANS AFFAIRS,
CHILLICOTHE VETERANS ADMINISTRATION HOSPITAL, Chillicothe, Ohio

*Docket No. 97-2018; Submitted on the Record;
Issued March 18, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish that she sustained a left arm condition as a result of her federal employment duties.

On October 3, 1996 appellant, then a 31-year-old secretary, filed a notice of occupational disease alleging that she developed a left wrist condition as a result of her federal employment duties. Appellant explained that her wrist was painful whenever she used the typewriter or computer, or kept her arm raised for any length of time, such as when she was carrying objects or filing. She indicated that she first became aware that her wrist condition was related to her employment on March 12, 1996. Appellant missed intermittent time from work due to her condition.

In support of her claim, appellant submitted medical reports and progress notes from her treating physicians, Dr. Robert A. Durbin, a Board-certified orthopedic surgeon, and Dr. Blair D. Vermilion, a Board-certified surgeon specializing in vascular surgery.

In a letter dated November 7, 1996, the Office of Workers' Compensation Programs requested that appellant submit additional factual and medical information regarding her condition. In response to allegations by the employing establishment, the Office asked that appellant include information regarding the physical requirements of her home candy making business and explain the degree of her involvement in the building of her new home.¹ The Office also informed appellant that the medical evidence she had submitted was insufficient to meet her burden of proof, in that it lacked a definitive diagnosis of her condition. The Office requested that appellant have an attending physician submit a detailed narrative medical report including a definitive diagnosis, a complete history of the injury and a clearly explained opinion of the causal relationship between the diagnosed condition and employment.

¹ The employing establishment informed the Office that appellant had requested a few days off to operate a bulldozer in the construction of a new home.

In response to the Office's request, appellant submitted an explanation of her candy making and bulldozing activities, and submitted additional medical evidence from Drs. Durbin and Vermilion.

In a decision dated December 16, 1996, the Office denied appellant's claim for compensation on the grounds that the evidence failed to establish that an injury or medical condition was sustained as alleged. In the accompanying memorandum to the Director, incorporated by reference into the decision, the Office noted that the medical evidence on file fails to identify a definitive diagnosis.

By letter dated January 13, 1997, appellant requested reconsideration of the prior Office decision and submitted additional medical evidence in support of her claim.

In a merit decision dated February 10, 1997, the Office found the evidence submitted insufficient to warrant modification of the prior decision.

The Board finds that appellant has not met her burden of proof to establish that she developed a left wrist condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act 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 filed within the applicable time limitation 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." These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.² In the present case, the Office accepted that the claimed exposure occurred at the time and place and in the manner alleged, but did not find that a medical condition had resulted from the exposure. As part of appellant's burden of proof, she must submit rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the injury claimed and her federal employment.³ The mere fact that a condition manifests itself or is worsened during a period of employment does not raise an inference of causal relationship between the two.⁴

The medical evidence submitted to the record does not satisfy appellant's burden of proof. In a progress note dated March 12, 1996, Dr. Durbin stated that his impression of appellant's condition was tendinitis of the left wrist, and he made a note to rule out carpal tunnel syndrome. In a progress note dated April 2, 1996, he discussed the possibility of carpal tunnel surgery. In a progress note dated May 14, 1996, Dr. Durbin noted that the nerve conduction studies were normal, and stated that he was still suspicious that appellant might have or might be developing "an underlying carpal tunnel," but added that he could not "entirely rule out a low grade radiculopathy in the cervical spine." In a note dated May 21, 1996, he noted that appellant's magnetic resonance imaging results were normal, and listed his impression of

² *George V. Lambert*, 44 ECAB 870 (1993).

³ *Steven R. Piper*, 39 ECAB 312 (1987); *Ronald K. White*, 37 ECAB 176 (1985).

⁴ *William Nimitz, Jr.*, 30 ECAB 567 (1979).

appellant's condition as cervical myofibrositis and possible early carpal tunnel despite the normal nerve test results. In a note dated June 18, 1996, Dr. Durbin again stated that appellant may have carpal tunnel syndrome. In a note dated August 8, 1996, he gave his impression as tenosynovitis of the forearm, probably from overuse. Dr. Durbin also indicated that he would attempt to rule out thoracic outlet syndrome and carpal tunnel syndrome. In his final report dated December 16, 1996, Dr. Durbin listed his diagnosis as "wrist pain, etiology undetermined, probably secondary to overuse with tendinitis of the left wrist, possible carpal tunnel syndrome, but negative EMG [electromyogram]." Dr. Vermilion also did not provide a definitive diagnosis. In his report dated October 1, 1996, Dr. Vermilion stated that he was not convinced that appellant had thoracic outlet syndrome, and that she may have more of a musculoskeletal or nerve root type problem. On a form CA-20 attending physician's report, he listed his diagnosis as "? thoracic outlet" and did not indicate whether he felt the condition was caused by appellant's employment duties. In a final report dated January 9, 1997, Dr. Vermilion stated that when he examined appellant he felt the possibility of thoracic outlet syndrome existed, however, all the components of thoracic outlet syndrome could not be confirmed. He concluded by saying that appellant "definitely has a problem that is caused by the repeated activity necessary to complete her occupation. When she does [not] do this activity, she is symptom free." As neither Drs. Durbin nor Vermilion was able to provide a definitive diagnosis of appellant's condition, their opinions that appellant's condition is causally related to her employment are speculative and unrationalized, and therefore insufficient to meet appellant's burden of proof.⁵

The decisions of the Office of Workers' Compensation Programs dated February 10, 1997 and December 16, 1996 are affirmed.

Dated, Washington, D.C.
March 18, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ See *William S. Wright*, 45 ECAB 498, 504 (1994).