

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARGARET L. SZULANCZYK and U.S. POSTAL SERVICE,
AIR MAIL CENTER, Detroit, MI

*Docket No. 98-657; Submitted on the Record;
Issued November 1, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
MICHAEL E. GROOM

The issue is whether appellant met her burden of proof to establish that she sustained a medical condition in the performance of duty causally related to factors of her employment.

On January 14, 1996 appellant, then a 48-year-old distribution clerk, filed a claim for compensation benefits alleging that she sustained bilateral carpal tunnel syndrome which she attributed to repetitive motion tasks required in her work.

In a written statement dated April 1, 1996, appellant stated that during her first 15 years with the employing establishment, for 8 hours a day, she handled large parcels of mail weighing 50 to 70 pounds which were separated into sacks according to destination, lifted and piled on "steels." She next worked as a foreign clerk with tasks consisting of throwing mail from the belt onto hampers with 50 percent of the mail weighing 20 to 43 pounds, lifting parcels from a hamper and placing them on a shelf 12 feet away, putting the parcels in sacks and sealing them with plastic ties, sorting 3,000 to 5,000 letters a day into a letter case, pulling mail out of cases and putting it in trays weighing 30 pounds and lifting tubs of mail weighing up to 40 pounds and carrying them to cases 8 feet away.

By letter dated April 12, 1996, a supervisor stated that appellant's description of her duties was accurate except that flat tubs usually weighed 20 to 25 pounds, letter trays usually weighed 10 to 15 pounds and flat cases were 18 inches away, not 8 feet. He stated that employees were rotated on tasks with one week generally assigned to one single task.

In a report dated March 1, 1996, Dr. Frank L. Donar, a general practitioner, stated that he first saw appellant on January 2, 1996 and that neuromuscular testing "on a subjective basis" determined there were median nerve compressions of both transverse carpal ligaments. He stated that his tentative diagnosis of carpal tunnel syndrome needed to be confirmed with objective testing, an electromyogram (EMG). Dr. Donar stated his opinion that appellant's condition was aggravated by her employment.

In a disability certificate dated June 3, 1996, Dr. A. Coleman diagnosed carpal tunnel syndrome and indicated that appellant could work with no lifting over 10 pounds for 30 days. He provided no findings on examination or test results.

By decision dated May 29, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record failed to establish that her claimed disability or medical condition was causally related to factors of her employment.

By letter dated March 26, 1997, appellant requested reconsideration of the denial of her claim and submitted additional evidence.

In a report dated July 6, 1996, Dr. Anton Bahu, an orthopedic surgeon, provided findings on examination which included negative Tinel's and Phalen's signs and a normal EMG. He diagnosed resolving carpal tunnel syndrome based upon the history given by appellant.

In a disability certificate dated May 8, 1997, Dr. Mark Richter, a Board-certified family practitioner, indicated that appellant was prone to recurrent strain of the trapezius muscle and that this was related to her activities at work.

By decision dated May 23, 1997, the Office denied appellant's request for reconsideration of her claim.

By letter dated August 5, 1997, appellant requested reconsideration of the denial of her claim and submitted additional evidence.

In a report dated July 31, 1997, Dr. Richter related that appellant had been under his care since February 27, 1997 for chronic bilateral/lateral epicondylitis and chronic trapezius muscle strain. He stated:

“Based on her history, I believe that these conditions were caused by the repetitive actions that [appellant] had to perform at her place of employment.... Because of these conditions, which are still present and which [appellant] will have for the rest of her life, she will not be able to return to her former job. She will also not be able to return to any job which requires repetitive squeezing, twisting or lifting more than five pounds.”

By letter dated October 1, 1997, the Office wrote to Dr. Richter and asked him to provide additional information. They noted that Dr. Richter did not provide any physical findings on examination, test results, or reasoned explanation regarding causal relationship. The Office provided a statement of accepted facts and copies of the medical evidence and asked Dr. Richter to provide additional information as well as a rationalized explanation as to how appellant's condition was causally related to factors of her employment.

There was no response from Dr. Richter to the Office's request for additional information.

By decision dated November 4, 1997, the Office denied modification of its prior decisions.¹

The Board finds that appellant has failed to meet her burden of proof to establish that she sustained a medical condition in the performance of duty causally related to factors of her employment.

An award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship.² Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that she sustained an injury in the performance of duty and that her disability was caused or aggravated by her employment.³ As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.⁴ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁵ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.⁶

In this case, appellant alleged that she sustained an injury as a result of her employment duties and submitted medical evidence in support of her claim.

In a report dated March 1, 1996, Dr. Donar, a general practitioner, stated that he first saw appellant on January 2, 1996 and that neuromuscular testing "on a subjective basis" determined there were median nerve compressions of both transverse carpal ligaments. He stated that his tentative diagnosis of carpal tunnel syndrome needed to be confirmed with objective testing, an EMG. He stated his opinion that her condition was aggravated by her employment. However, Dr. Donar provided only a tentative diagnosis in this report which he stated needed to be confirmed with objective tests. Furthermore, he provided no medical rationale, based upon a complete and accurate factual background including knowledge of appellant's job duties, in support of his opinion that appellant's job aggravated her condition. Due to these deficiencies, this report is not sufficient to establish that appellant sustained a medical condition causally related to factors of her employment.

¹ Subsequent to issuance of the Office's November 4, 1997 decision, appellant submitted additional evidence. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).

² *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

³ *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

⁴ *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁵ *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

⁶ *Joseph T. Gulla*, *supra* note 4.

In a disability certificate dated June 3, 1996, Dr. Coleman diagnosed carpal tunnel syndrome and indicated that appellant could work with no lifting over 10 pounds for 30 days. However, he provided no findings on examination or test results to support his diagnosis and no rationalized explanation as to how this condition was causally related to appellant's job duties. Therefore, this disability certificate is not sufficient to discharge appellant's burden of proof.

In a report dated July 6, 1996, Dr. Bahu provided findings on examination which included negative Tinel's and Phalen's signs and a normal EMG. He diagnosed resolving carpal tunnel syndrome based upon the history given by appellant. However, he did not provide a rationalized medical opinion explaining how appellant's job duties caused her condition. Furthermore, he did not explain why he diagnosed carpal tunnel syndrome based upon the history given by appellant when the objective tests he performed were negative. Due to these deficiencies, this report is not sufficient to establish that appellant sustained an employment-related medical condition.

In a disability certificate dated May 8, 1997, Dr. Richter indicated that appellant was prone to recurrent strain of the trapezius muscle and that this was related to her activities at work. However, he provided no findings on examination or test results and no rationalized opinion describing how appellant's job duties caused this condition and therefore this report is not sufficient to discharge appellant's burden of proof.

In a report dated July 31, 1997, Dr. Richter stated his opinion that appellant's chronic bilateral/lateral epicondylitis and chronic trapezius muscle strain were caused by repetitive motion tasks performed at work. However, he provided no findings on examination or test results and no medical rationale explaining how appellant's tasks had caused these conditions. Therefore, this report does not establish that appellant sustained an employment-related medical condition.

The decision of the Office of Workers' Compensation Programs dated November 4, 1997 is affirmed.

Dated, Washington, D.C.
November 1, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom

Alternate Member