

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA A. EWINGS and U.S. POSTAL SERVICE,
POST OFFICE, Washington, DC

*Docket No. 98-1011; Submitted on the Record;
Issued November 3, 1999*

DECISION and ORDER

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

The issue is whether appellant had carpal tunnel syndrome of her right wrist causally related to her employment.¹

On April 5, 1991 appellant, then a 45-year-old distribution clerk, filed a claim for compensation alleging that her right carpal tunnel syndrome was caused by factors of her federal employment.² In support of her claim appellant submitted a narrative statement dated May 23, 1991 in which she stated that she had become symptomatic as early as December 1990 which she believe was caused by cumulative "hand sticking letter mail" and rapid wrist bending. Appellant stated that after a back injury in August 1989, she "continued to stick mail with her right hand" as she was incapable of using her left side. In a limited duty form dated March 5, 1991, appellant agreed to work at a limited-duty position which restricted her to lifting no more than 10 pounds overhead, that required her to wear a right hand brace, to sit in a high-backed chair and to work during daylight hours "for medication purposes and aggravated conditions at night."

In a medical report dated May 6, 1991, Dr. Willie J. Banks, appellant's treating physician and Board-certified in orthopedic surgery, stated that he had been treating appellant since August 1989 at which time she had pains in the neck radiating into her left shoulder and upper back region secondary to cervical strain. In October 1990 appellant related pain and swelling of the left hand and numbing and tingling in the digits. Appellant later reported similar symptoms in her right hand.³ Dr. Banks diagnosed appellant with bilateral carpal tunnel syndrome as

¹ The hearing representative stated that the issue was whether appellant had carpal tunnel syndrome or any condition as a result of factors of her federal employment.

² Appellant noted that she was initially aware of her carpal tunnel syndrome in December 1990.

³ Dr. Banks did not indicate when the right hand symptoms appeared.

indicated by electromyogram (EMG). He further noted that her carpal tunnel syndrome was secondary to compression of the median nerve at the wrist and that no direct cause for the carpal tunnel syndrome could be identified. He added:

“This is especially true in the absence of direct injury or conditions such as rheumatoid arthritis, etc. Thus there is no way, on the basis of clinical or laboratory testing to refute and/or confirm the ultimate reason why appellant has developed this problem at this time.”

In a letter dated January 2, 1992, appellant stated that she had been hospitalized in November 1991 and on total disability for her claimed condition.⁴

In a narrative received by the Office of Workers' Compensation Programs on January 16, 1992 appellant stated in response to the Office's November 4, 1991 request for additional information that it was “uncomfortable ... to sleep at night when I am awakened by enormous pain in my right hand.”

In a decision dated February 18, 1992, the Office denied appellant's claim for compensation for work-related carpal tunnel syndrome on the grounds that appellant failed to establish that an injury occurred as alleged. In an attached memorandum, the Office found that the events, incidents or exposures as alleged by appellant occurred but that the medical evidence of record failed to establish that an injury occurred as a result of her employment.

On March 3, 1992 appellant requested an oral hearing on the Office's February 18, 1992 decision denying benefits.

On January 19, 1993 a hearing was held and appellant testified that she initially reported her condition in October 1990 and that she had been treated by Dr. Banks, Dr. Norman J. Cowen, Board-certified in orthopedic surgery with a specialty in hand surgery, and Dr. Jeffrey I. Goltz, Board-certified in orthopedic surgery. Her representative stated that the issue was for medical benefits only and that no lost time was involved.

In a January 7, 1993 medical report submitted at the close of the hearing, Dr. Goltz, stated that appellant had been diagnosed with bilateral carpal tunnel syndrome by electromyogram (EMG), that appellant initially reported pain in the left hand in October 1990 and numbness in the same hand in December 1990. He noted that, based on appellant's position description “which involves repetitive motions with hand/wrist,” it was “very possible that the carpal tunnel can be related to occupational disease.”

In a June 11, 1991 medical report received by the Office on February 25, 1993, Dr. Cowen stated that appellant initially related pain and numbness of the right wrist in December 1990 and essentially similar symptoms in the left wrist in March 1991. He noted that a magnetic resonance imaging (MRI) scan revealed carpal tunnel syndrome in the left wrist and an EMG revealed carpal tunnel syndrome in the right wrist. Upon examination Dr. Cowen noted

⁴ Appellant cited her claim number in her January 2, 1992 letter which the Office assigned to her claim for carpal tunnel syndrome. Appellant did not specify that her condition was carpal tunnel syndrome.

excellent range of motion in both hands and a negative Tinel's bilaterally. Although he noted positive Phalen's sign, he added that it "brings about ulnar distribution." Dr. Cowen diagnosed appellant with probable mild bilateral carpal tunnel syndrome and "arthritis of the carpal metacarpal joint." He stated that appellant should try a particular special right hand splint at work. Dr. Cowen added in an addendum that appellant had "palpable ulnar nerve at the elbow but no particular tenderness." In a follow-up treatment noted dated June 25, 1991, Dr. Cowen stated that nerve conduction studies revealed significant elevations and in a treatment note dated August 13, 1991 he stated that appellant would be scheduled for surgery.

In a narrative dated February 5, 1993, appellant stated that she sprained her neck, left shoulder and middle upper back while in the performance of duty in August 1989 and was placed on light duty and given a high backed chair for her back condition. Appellant stated that she could not use her left arm for about two weeks because of severe pain and used her right arm exclusively instead. In October 1990 she noticed symptoms in her left hand and in December she notice symptoms on her right hand with tingling and numbness.

In a decision issued and finalized on March 3, 1993, the Office's hearing representative affirmed the Office's February 18, 1992 decision denying benefits. The hearing representative found that none of the medical reports from Drs. Banks, Goltz or Cowen supported appellant's claim that the medical condition was causally related to factors of her federal employment.

In a limited-duty form report dated February 24, 1993 and received by the Office on April 8, 1993, appellant rejected the employing establishment proposal for light duty with a starting time at midnight. Appellant stated that her doctor restricted her from working at night because of her pain and the medication she was taking. In several claim forms for wage-loss dated March 15 and April 2, 1993, appellant claimed wage loss from March 6 to April 2, 1993 based on her bilateral carpal tunnel syndrome.

On March 30, 1993 the employing establishment controverted appellant's claim on the grounds that she rejected the agency's offer of limited duty.

In a medical report dated April 1, 1993, Dr. Goltz stated that appellant was disabled from regular work due to her bilateral carpal tunnel syndrome from March 20 to April 2, 1993.

On April 19, 1993 the Office notified appellant that it had received her claims for wage loss but that because her claim for compensation had been denied her claim for wage loss could not be approved for payment. The Office further notified appellant that "[F]or further consideration, you are advised to follow the instructions that outline the reconsideration and appeals process discussed on March 3, 1993."

On April 29, 1993 appellant requested authorization to change her treating physician to Dr. Rida N. Azer, Board-certified in orthopedic surgery.

In a medical report dated May 21, 1993, Dr. Azer stated that appellant's bilateral carpal tunnel syndrome was work related. He noted that the movement appellant demonstrated to him revealed repetitive movements of pronation and flexion of the right wrist and mid-pronation of the left wrist.

In a medical report dated May 24, 1993, Dr. Azer stated that the date of appellant's initial injury was August 11, 1989, that she had bilateral carpal tunnel syndrome as demonstrated by EMG and nerve conduction velocity studies and that a "strongly positive Tinel's and Phalen's signs is noted today."⁵

On May 25, 1993 appellant requested reconsideration.

In a medical report dated June 4, 1993, Dr. Azer stated that appellant still had numbness, weakness and pain in both hands and was tender over the volar carpal ligament. He noted that appellant had a positive Tinel's sign over the medial nerve distribution both hands, hypoesthesia to pinprick over the right and left median nerve distribution, positive Phalen's sign bilaterally. Dr. Azer also noted that appellant was tender over C5, C6, C7, L4, L5 and S1 and had pain and muscle spasm on movement of both the cervical and lumbar spine. He reported that appellant's May 17, 1993 nerve conduction studies revealed bilateral carpal tunnel syndrome and a left cervical C7 radiculopathy and a left C5 lumbar radiculopathy. He advised that appellant was scheduled for decompression surgery and "excision biopsy synovium flexor tendons, right and left hand." In a medical report dated June 8, 1993, Dr. Azer requested authorization to perform decompression right and left carpal tunnel syndrome and "excision biopsy synovium flexor tendons right and left wrist and hand."

In a merit decision dated August 9, 1993, the Office denied appellant's request for reconsideration on the grounds that the medical evidence consisting of medical reports of Drs. Azer and Goltz failed to establish that her employment factors were the cause of her medical condition. The Office noted that the medical reports failed to include "Phalen's sign, Tinel's sign, positive physical findings, decreased nerve conduction velocity and decreased muscle motor activity as measured by EMG."

In an attending physician's report dated October 1, 1993, Dr. Azer stated that appellant had had surgery on September 30, 1993 for bilateral carpal tunnel syndrome and tendinitis, left shoulder, with impingement syndrome.⁶ In an attending physician's report dated October 12, 1993, Dr. Azer checked a box indicating that appellant was totally disabled based on her work-related bilateral carpal tunnel syndrome and tendinitis, left shoulder, with impingement syndrome. Appellant subsequently submitted multiple claims for wage loss from July 16, 1993 to May 13, 1994.

On June 17, 1994 the Office advised appellant that her claim had closed on August 9, 1993 and that no action would be taken regarding her claims for wage loss.

In a medical report dated October 20, 1995, Dr. Azer stated appellant's condition as essentially unchanged since June 3, 1993 and that the recent EMG test revealed delayed ulnar nerve conduction velocity across the elbows bilaterally." He attached a copy of the EMG results.

⁵ The Board notes that appellant related an August 1989 back injury.

⁶ The Board notes that Dr. Azer did not sign the October 1, 1993 attending physician's report, but that a stamp was used in lieu of signature.

On July 5, 1994 appellant requested reconsideration.⁷

On December 19, 1997 the Office denied appellant's request in a merit decision on the grounds that the medical evidence failed to establish that appellant's condition was causally related to her employment factors.

In the present case, appellant has alleged that she suffers from carpal tunnel syndrome of her right wrist which was either caused or aggravated by factors of her federal employment. As part of appellant's burden of proof, she must submit rationalized medical evidence based upon a complete and accurate factual and medical background, showing a causal relationship between the injury claimed and her federal employment.⁸ To support her claim, appellant submitted medical reports from Drs. Banks, Goltz, Cowen and Azer. Dr. Goltz, Board-certified in orthopedic surgery, stated in a January 7, 1993 medical report that appellant's bilateral carpal tunnel syndrome which had been established by EMG can be related to occupational disease and noted that her job description included repetitive motions of sorting mail. Further, Dr. Azer, also Board-certified in orthopedic surgery, stated in medical reports dated May 23 and June 8, 1993 that appellant's carpal tunnel syndrome was causally related to factors of federal employment. He added that appellant's demonstration of her mail sorting activities revealed repetitive movements of the right wrist which supported his conclusion of causal relationship. Dr. Azer noted that appellant had a positive Tinel's sign over the medial nerve distribution both hands, hypoesthesia to pinprick over the right and left median nerve distribution, positive Phalen's sign bilaterally. He also noted that appellant's nerve conduction studies revealed bilateral carpal tunnel syndrome.⁹

The Board finds that the medical evidence is sufficient to establish that appellant's right carpal tunnel syndrome is causally related to factors of federal employment.

A claimant seeking benefits under the Federal Employees' Compensation Act¹⁰ has the burden of proof to establish the essential elements of her claim by the weight of the evidence,¹¹ including that she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.¹²

⁷ The record reveals that the Office received a congressional inquiry on June 11, 1997 with a copy of appellant's July 5, 1994 request for reconsideration attached. The Office therefore treated appellant's request as timely filed.

⁸ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994); *Steven R. Piper*, 39 ECAB 312 (1987).

⁹ Dr. Banks stated in a May 6, 1991 report, that he was unable to determine how appellant had developed her bilateral carpal tunnel syndrome condition. However there is no evidence that he had reviewed appellant's position description or was aware of appellant's physical requirements. Dr. Banks has since retired from medical practice.

¹⁰ 5 U.S.C. §§ 8101-8193.

¹¹ *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

¹² *Elaine Pendleton*, 40 ECAB 1143 (1989).

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between her current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.¹³

The reports of Drs. Goltz and Azer support that appellant's bilateral carpal tunnel syndrome is causally related to factors of federal employment. The opinions are based on a proper background and awareness of appellant's work requirements and history of injury. Both doctors were aware of appellant's work requirements of hand sorting mail verified by her position description including Dr. Azer's statement that appellant demonstrated her mail sorting requirements for him. There is no medical opinion evidence to the contrary.¹⁴ Indeed the Board notes that the Office in its August 9, 1993 decision incorrectly stated that appellant's medical records failed to include positive Phalen's and Tinel's sign, positive physical findings, decreased nerve conduction velocity and decreased muscle motor activity as measured by EMG. Indeed, Drs. Banks, Goltz, Cowen and Azer provided clinical findings to support appellant's claim for carpal tunnel syndrome, including positive Phalen's and Tinel's signs, positive EMG and nerve conduction studies. The Board therefore finds that appellant has met her burden of proof in establishing that her right carpal tunnel syndrome is causally related to factors of federal employment and the case is remanded to the Office for payment of appropriate compensation.¹⁵

¹³ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

¹⁴ The Board notes that Dr. Banks stated that there was no way to refute or confirm the ultimate reason why appellant developed right carpal tunnel syndrome.

¹⁵ The Board notes that appellant's undated claim for wage loss from January 28 to February 7, 1992 received by the Office on April 13, 1992 applies to a different claim. Also, appellant's claim for wage loss from February 8 to February 21, 1992 originally had a different claim number but was changed to reflect appellant's claim for carpal tunnel syndrome.

The decision of the Office of Workers' Compensation Programs, dated December 19, 1997 is hereby reversed.

Dated, Washington, D.C.
November 3, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member