

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY E. THOMPSON and DEPARTMENT OF THE AIR FORCE,
AIR TRAINING COMMAND, GOODFELLOW AIR FORCE BASE, TX

*Docket No. 98-1127; Submitted on the Record;
Issued November 10, 1999*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a bilateral, osteoarthritic hand condition in the performance of duty.

On March 22, 1996 appellant, a 66-year-old secretary, filed a Form CA-2, claim for benefits based on occupational disease, alleging that this condition was caused or aggravated by factors of employment and that she became aware of this condition on March 11, 1996. Appellant retired from the employing establishment on May 26, 1995.

By letter dated May 6, 1996, the Office advised appellant that she needed to submit additional evidence in support of her claim. The Office asked appellant to submit a detailed description of the specific employment-related conditions or incidents she believed contributed to her osteoarthritic hand condition. The Office also asked appellant to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition and an opinion as to whether factors or incidents, *i.e.*, specific employment factors, at her employing establishment contributed to her condition.

By decision dated June 18, 1996, the Office denied appellant's claim, finding that appellant failed to submit sufficient medical evidence to establish that the claimed medical condition was causally related to factors or incidents of employment.¹

By letter dated June 30, 1996, appellant requested an oral hearing. In support of her claim, appellant submitted a March 22, 1996 report from Dr. James W. Yost, Board-certified in internal medicine and a specialist in rheumatology. Dr. Yost noted appellant's 15-year history of typing and clerical work and opined that she developed progressive, severe osteoarthritis in her hands as indicated by x-rays. He stated that appellant related that her discomfort began in

¹ The Office stated that appellant, in response to its request for additional information, had submitted results of x-rays dated March 3, 1996. This document is not contained in the instant record.

August 1982 and had continued to the present time. Dr. Yost noted on examination that appellant had significant deformity with angulation, osteophyte formation and rigidity, with fusion involving the fourth and fifth fingers. He concluded that appellant's pattern of disease was consistent with osteoarthritis, which, in light of her 15-year history of clerical typing, was compatible with damage related to her work.

By decision dated September 4, 1997, an Office hearing representative set aside the Office's previous decision denying benefits. The hearing representative stated that Dr. Yost's report constituted a significant opinion indicating that appellant's diagnosed condition, bilateral osteoarthritis, was causally related to factors of her federal employment and that the case therefore required further development. The hearing representative remanded the case to the district office with instructions for an office medical adviser to review the record and determine whether appellant was entitled to compensation for her bilateral osteoarthritis based on Dr. Yost's opinion that the condition was causally related to employment, or whether the case required additional development.

In a memorandum dated September 25, 1997, the office medical adviser stated that the diagnosis of bilateral osteoarthritis was supported by the medical evidence of record, but opined that the condition was not generally associated with clerical work. He concluded that appellant's bilateral osteoarthritis was not causally related to factors of her federal employment.

By letters dated October 1, 1997, the Office referred appellant, a statement of accepted facts and the case record to Dr. James H. Wild, Board-certified in internal medicine and a specialist in rheumatology, for a second opinion regarding whether her bilateral osteoarthritis was caused or aggravated by factors of her employment.

In a report dated October 21, 1997, Dr. Wild reported findings on examination, reviewed x-rays and the statement of accepted facts and concurred with Dr. Yost's diagnosis of bilateral osteoarthritis. Dr. Wild, however, did not believe that appellant's 15 years of typing caused the condition. He stated that osteoarthritis is an extremely common condition which generally occurred independently from a person's occupation, although there were certain recognized exceptions such as jackhammer operators.

By decision dated November 26, 1997, the Office denied appellant's claim for benefits based on her bilateral osteoarthritis condition, stating that Dr. Wild's opinion represented the weight of the medical evidence.

The Board finds that the case is not in posture for decision.

An employee seeking benefits under the Federal Employees' Compensation Act² 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 timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition

² 5 U.S.C. § 8101 *et seq.*

for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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. The medical evidence required to establish causal relationship is usually rationalized medical evidence. 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 claimant, must be one of reasonable medical certainty 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.⁵

In the instant case, there is a conflict in the medical evidence, as there were opposing medical opinions regarding the issue of whether appellant's bilateral arthritis was caused or aggravated by factors of her federal employment. Although the Office referral physician, Dr. Wild, found that appellant's condition was not causally related to her employment, he is not an impartial medical examiner and his opinion therefore does not contain the special weight of an impartial medical examiner under section 8123(a).⁶ Thus, his opinion does not carry greater weight than that of Dr. Yost, the rheumatologist who found that appellant had severe osteoarthritis in both hands which was caused by her 15-year history of typing and clerical work. Accordingly, a conflict in the medical evidence exists and the case must be referred to an impartial medical examiner to resolve the conflict in medical evidence regarding whether appellant's claimed condition was causally related to factors of her federal employment.

On remand, therefore, the Office should further develop the medical evidence by referring the case file and a statement of accepted facts to an impartial medical examiner to resolve the issue of whether appellant's bilateral osteoarthritis is causally related to factors or incidents of her employment. After such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

³ *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Id.*

⁶ 5 U.S.C. § 8123(a).

The decision of the Office of Workers' Compensation Programs dated November 26, 1997 is set aside and the case is remanded for further development consistent with this decision of the Board.

Dated, Washington, D.C.
November 10, 1999

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member