

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LEE J. ZAMASKY and U.S. POSTAL SERVICE, POST OFFICE,
Capitol Heights, MD

*Docket No. 98-1933; Submitted on the Record;
Issued November 23, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof to establish that he sustained an injury while in the performance of duty.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to meet his burden of proof to establish that he sustained an injury while in the performance of duty.

On January 7, 1998 appellant, then a 46-year-old mailhandler, filed a claim for an occupational disease (Form CA-2) alleging that on that date he first realized that his left carpal tunnel syndrome was caused or aggravated by his employment. Appellant's claim was accompanied by medical evidence.

By letter dated February 12, 1998, the Office of Workers' Compensation Programs advised the employing establishment to submit factual evidence regarding appellant's claim. By letter of the same date, the Office advised appellant that the evidence submitted was insufficient to establish his claim. The Office also advised appellant to submit additional factual and medical evidence supportive of his claim. Neither the employing establishment nor appellant responded to the Office's request.

By decision dated May 5, 1998, the Office found that the evidence of record was insufficient to establish that appellant sustained an injury while in the performance of duty.

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, generally, is rationalized medical opinion 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.¹

In the present case, there is no rationalized medical evidence of record establishing that appellant sustained an injury while in the performance of duty. In support of his claim, appellant submitted a January 13, 1998 medical treatment note of Dr. Thomas M. Brushhart, a Board-certified orthopedic surgeon, revealing that he was being treated on a follow-up basis for carpal tunnel syndrome. Dr. Brushhart noted that appellant's right side continued to do well after surgery, but that appellant was experiencing gradual symptoms on the left side. Dr. Brushhart noted appellant's other complaints and assessed that appellant had left carpal tunnel syndrome. Appellant also submitted Dr. Brushhart's February 3, 1998 medical treatment note indicating that Dr. Brushhart reinjected his left carpal tunnel with Kenalog. Dr. Brushhart stated that if this treatment did not successfully eliminate appellant's symptoms, then they would plan for left carpal tunnel release.

Dr. Brushhart's medical treatment notes failed to address whether appellant's left carpal tunnel syndrome was caused by factors of his employment. Although the Office advised appellant of the type of medical evidence needed to establish his claim, appellant failed to submit medical evidence responsive of this request. Consequently, appellant has failed to establish that he sustained an injury while in the performance of duty.

¹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

The May 5, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
November 23, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member