U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EDWARD JUNIUS LUNDY and U.S. POSTAL SERVICE, JACKSONVILLE BULK MAIL CENTER, Jacksonville, FL

Docket No. 98-283; Submitted on the Record;
Issued October 27, 1999

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT, A. PETER KANJORSKI

The issue is whether appellant met his burden of proof in establishing that he sustained carpal tunnel syndrome causally related to factors of his federal employment.

On October 13, 1995 appellant, then a 42-year-old flat sorter keyer, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that he developed carpal tunnel syndrome as a result of his employment. Appellant contended that this was the result of keying for approximately four or five years, eight to ten hours a day, five to six days a week. Submitted at the same time were official job descriptions of appellant's work, a note requesting light duty for appellant dated January 14, 1993 which was "okayed" for 30 days and a letter dated January 15, 1993 detailing appellant's restrictions while on light duty. Appellant's supervisor indicated that appellant had been in a limited-duty status since June 1995.

In response to a December 15, 1995 request for further information from the Office of Workers' Compensation Programs, appellant submitted an undated statement describing in greater detail the factors of his employment to which he attributed his condition. In addition, appellant submitted a January 2, 1996 report of Dr. Robert J. Kleinhans, a Board-certified orthopedic surgeon, noting that he saw appellant on January 26, 1994 with a complaint of pain in the right wrist radiating up the arm and that he diagnosed mild arthritis. Dr. Kleinhans noted that appellant requested an impairment rating relative to his right hand. He reported that appellant's wrist had been bothering him for quite some time, that he returned on May 25, 1994 stating the cortisone shot did not help and at that time Dr. Kleinhans diagnosed repetitive stress syndrome. He opined that appellant's wrist was about the same from the arthritis and repetitive stress. Finally, Dr. Kleinhans stated that appellant reached maximum medical improvement on July 17, 1995 and assigned a rating of 20 percent to the right upper extremity or an 11 percent impairment of the body as a whole.

On January 10, 1996 the employing establishment submitted a duty status report (Form CA-17) dated November 20, 1995, in which Dr. Kleinhans forbid pulling/pushing and fine

manipulation "including keyboarding." In the supervisor's description of the job, it was noted that appellant's job as distribution clerk required him to push and pull between one to three hours a day, and engage in fine manipulation from two to four hours a day. Also submitted were two notes from an employing establishment official, who indicated that appellant never requested leave for carpal tunnel syndrome, that appellant had been working limited duty since his return in June 1995 from his detail outside of the employing establishment and that his duties consisted of bundling loose mail for processing.

In response to questions posed by the Office, Dr. Kleinhans responded on March 19, 1996 that "the trigger finger and the carpal tunnel are two separate injuries related to [appellant's] employment. The wrist problem did not cause the finger problem."

In a decision dated June 6, 1996, the Office denied compensation benefits on the grounds that the evidence failed to support that appellant sustained an injury.

On April 16, 1997 appellant requested reconsideration of the decision, submitting a medical report dated April 21, 1997 by Dr. Kleinhans, in which he noted that appellant returned to his office on April 8, 1997, that Tinel's sign was positive over carpal tunnel and the Phalen's test was negative. Dr. Kleinhans diagnosed right carpal tunnel. He reported that nerve conduction studies revealed bilateral carpal tunnels and that appellant wished to have surgery. Dr. Kleinhans also indicated that appellant's carpal tunnel was probably work related.

On May 6, 1997 the Office denied appellant's request for modification finding the evidence submitted in support of the application was not sufficient to warrant modification of its prior decision. The Office noted that the medical evidence of record established a diagnosis of carpal tunnel syndrome supported by positive testing results. However, the Office found that Dr. Kleinhans failed to explain "what specific work duties or activities caused or contributed to this condition."

By letter dated June 16, 1997, appellant again requested reconsideration of the decision and submitted a report from Dr. Kleinhans dated June 16, 1997, who noted:

> "[Appellant's] job involves gathering loose mail, putting rubberbands around hand fulls of mail and throwing them in a hamper and more recently he is now working the CRT machine. That work is repetitive and mildly strenuous and because of the repetitive nature I think it is consistent with causative factors for carpal tunnel syndrome."

Additionally, appellant submitted progress notes from Dr. Kleinhans. He reported on January 29, 1997 that appellant's right carpal tunnel was worse, that the Tinel's sign was negative and the Phalen's test was positive.[1]

In a decision dated September 25, 1997, the Office denied appellant's claim, finding that Dr. Kleinhans' opinion that appellant's work involved repetitive movements which led to the

[1] Appellant also submitted an award of compensation, in Office File No. A6-0650766, dated March 25, 1997, by which the Office granted appellant a schedule award for a 16 percent loss of use of the right hand.

development of bilateral carpal tunnel syndrome is inconsistent with the factual evidence in the case.

The Board finds that this case is not in posture for decision and will be remanded for further evidentiary development.

An employee seeking benefits under the Federal Employees' Compensation Act[2] 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 an injury was sustained in the performance of the duty alleged and/or specific condition for which compensation is claimed is 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, appellant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is alleged; (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 appellant 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 appellant.[5] The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[6] 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 appellant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of appellant, 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 appellant.[7]

On January 2, 1996 Dr. Kleinhans originally diagnosed that appellant was suffering from arthritis and repetitive stress syndrome. In a report dated April 21, 1997, he noted that appellant's bilateral carpal tunnel was "probably" work related. In a supplemental report dated

[2] 5 U.S.C. §§ 8101-8193.

[3] *Louise F. Garnett*, 47 ECAB 639, 643 (1996); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[4] The Office's regulations clarify that a traumatic injury refers to an injury caused by a specific event or incident or series of events or incidents occurring within a single workday or work shift whereas occupational disease refers to injury produced by employment factors which occur or are present over a period longer than a single workday or shift; *see* 20 C.F.R. § 10.5(a)(15), (16).

[5] *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[6] *Ern Reynolds*, 45 ECAB 690 (1994).

[7] *Kathy Marshall*, 45 ECAB 827, 832 (1994).

June 16, 1997, submitted at the Office's request, Dr. Kleinhans noted that appellant's job involves gathering loose mail, putting rubberbands around hand fulls of mail and throwing them in a hamper, a job description that does not differ significantly from the description provided by appellant on his claim form. He found that these duties were repetitive and mildly strenuous and because of the repetitive nature, they were consistent with the causative factors for carpal tunnel syndrome. Dr. Kleinhans' opinion is supported by his records as the treating physician, positive Phalen's nerve conduction studies, evidencing carpal tunnel and an accurate description of appellant's light-duty work.

According to the Federal (FECA) Procedure Manual, carpal tunnel syndrome may be caused by work-related constant exertion and/or repetitive motion with the wrist flexed or extended against resistance and acute trauma. The procedure manual further notes that the medical report should contain clear evidence that the disease is present and that among these clinical findings are positive Phalen's test, positive Tinel's sign, neurological abnormalities, decreased nerve conduction velocity as measured during nerve conduction test and decreased muscle motor activity as measured by electromyography (EMG).[8]

In the instant case, only two of Dr. Kleinhans' diagnostic protocols are positive, *i.e.*, the Phalen's test and early decreased velocities shown from the nerve conduction studies. No EMG study has been obtained. Dr. Kleinhans' reports are generally supportive of appellant's claim of carpal tunnel syndrome. Although the medical evidence submitted by appellant is not sufficient to meet his burden of proof, the medical evidence of record raises an uncontroverted inference of causal relationship between appellant's carpal tunnel syndrome and his employment injury and is sufficient to require further development of the record by the Office.[9]

Accordingly, the case will be remanded for further development and a *de novo* decision.[10] On remand, the Office shall prepare an appropriate statement of accepted facts and shall further develop the medical evidence to determine whether appellant's carpal tunnel syndrome is causally related to his federal employment.

[8] Federal (FECA) Procedure Manual 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.8c (December 1991) (listing clinical findings to be included in physician's reports).

[9] *See Horace Langhorne*, 29 ECAB 820, 821 (1978).

[10] *Id*. at 822.

The September 25 and May 6, 1997 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further proceedings in accordance with this decision.

Dated, Washington, D.C.
October 27, 1999

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member