

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of LARRY DAUGHERTY and TENNESSEE VALLEY AUTHORITY,  
WATTS BAR NUCLEAR POWER PLANT, C BUILDING, Spring City, TN

*Docket No. 98-456; Submitted on the Record;  
Issued October 1, 1999*

---

DECISION and ORDER

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

The issues are: (1) whether appellant has established that he sustained a recurrence of disability on and after April 24, 1996 causally accepted to an accepted left hand strain; and (2) whether appellant has established that he sustained left carpal tunnel syndrome and left epicondylitis causally related to factors of his federal employment.

The Office of Workers' Compensation Programs accepted that on March 31, 1995 appellant, then a 50-year-old file clerk, sustained a left hand strain when he tried to catch three falling binders.<sup>1</sup> Appellant first sought treatment from Dr. W.C. Zachary, an employing establishment physician, who submitted a March 31, 1995 report, diagnosing a strain of the extensor tendons of the third finger of the left hand. Dr. Zachary submitted periodic reports through April 14, 1995 noting appellant's continuing symptoms.

Beginning on April 19, 1995 appellant, was treated by Dr. Joseph C. DeFiore, Jr., an attending orthopedist, who provided a history of injury and treatment, noted appellant's complaints of pain between the index and third fingers of the left hand, diagnosed a "probable intrinsic strain to left hand" and prescribed a splint.<sup>2</sup> In a May 10, 1995 report, Dr. DeFiore diagnosed a sprain of the left "long finger MP (metacarpophalangeal) with interosseous involvement." In reports dated June 7 and July 19, 1995, he noted appellant's continued pain symptoms in the long finger and dorsum of the left hand, localized over the metacarpal joints and

---

<sup>1</sup> The Office noted concurrent, nonoccupational conditions of hypertension, peripheral neuropathy, diabetes and a left knee problem.

<sup>2</sup> Dr. DeFiore obtained x-rays which did not demonstrate any pathology.

the intrinsic muscles between the long and third fingers. Appellant reported intermittent swelling and inability to make a complete fist.<sup>3</sup>

In a series of reports from March 1 to April 23, 1996, Dr. DeFiore related appellant's complaints of "unusual swelling" in the left hand, severe left elbow pain radiating into the lateral epicondyle, reproducible with wrist dorsiflexion, localized tenderness over the extensor muscle mass into the extensor carpal radialis and brevis tendons and on the dorsum of the hand. He observed that appellant's Tinel's and Phalen's signs went from negative on March 1 to positive on March 22 and that his sedimentation rate was quite elevated. Dr. DeFiore noted that April 1996 electrodiagnostic studies demonstrated peripheral neuropathy and "some motor polyneuropathy," along with signs of mild carpal tunnel syndrome, with severe involvement of the left posterior antebrachial cutaneous nerve, unresponsive to conservative therapy.<sup>4</sup> He held appellant off work from April 12 through May 9, 1996.

On April 24, 1996 appellant filed a claim for continuing compensation on account of disability for the period April 24 to May 9, 1996, during which time he used leave without pay (LWOP).

In a May 13, 1996 fitness-for-duty report, Dr. John Huffman, an employing establishment physician, released appellant to light duty with "[l]imited use of left hand except as helper. Lifting limited to 10 to 15 pounds."

In a May 16, 1996 letter, the Office advised appellant of the additional factual and medical evidence needed to establish his claim, including a physician's rationalized opinion explaining how and why the March 31, 1995 injury would cause appellant's condition on and after April 24, 1996. The Office noted that Dr. DeFiore had mentioned a possible arthritic condition, which had not been accepted by the Office as work related.<sup>5</sup>

In a June 1, 1996 letter, appellant, through his authorized attorney representative, asserted that his symptoms had continued unabated since the March 31, 1995 injury. Appellant also stated that the arthritic condition observed by Dr. DeFiore pertained to his knee only, not his hands or wrists.

In a June 21, 1996 report, Dr. DeFiore diagnosed tennis elbow, mild carpal tunnel syndrome caused in part by diabetes, lateral epicondylitis and unexplained absent posterior antebrachial cutaneous nerve conduction on electrodiagnostic testing, relieved with Diazepam prescribed by Dr. Molodny, a neurologist. Dr. DeFiore released appellant from care, with

---

<sup>3</sup> A bone scan and electrodiagnostic studies performed in July 1995 were normal. In a January 5, 1996 note, Dr. T. Craig Beeler, an orthopedist affiliated with Dr. DeFiore, noted appellant's knee problems. This report does not address the claimed hand or wrist condition.

<sup>4</sup> Dr. DeFiore prescribed occupational therapy from March to May 1996 to improve his left hand function, and a TENS (transcutaneous electrical stimulation) unit on May 1, 1996.

<sup>5</sup> In a June 4, 1996 letter, the Office again asked that appellant provide the additional information requested in the May 16, 1996 letter.

follow-up if his symptoms flared. Dr. DeFiore noted that arthritis had “not been documented,” and that appellant did not appear to have any permanent impairment.

By decision dated July 23, 1996, the Office denied appellant’s claim for recurrence of disability on the grounds that the medical evidence failed to establish the requisite pathophysiological relationship between appellant’s claimed condition beginning April 24, 1996 and the accepted March 31, 1995 left hand strain. Appellant disagreed with the decision and requested an oral hearing before a representative of the Office’s Branch of Hearings and Review, held May 12, 1997. He submitted additional evidence.<sup>6</sup>

In an August 13, 1996 report, Dr. DeFiore stated that appellant’s symptoms had returned but his sedimentation rates had improved significantly and that a triphase bone scan did not demonstrate reflex sympathetic dystrophy. He also noted that Dr. Molodny diagnosed mild carpal tunnel syndrome and “some peripheral neuropathy,” but was unable to explain “the posterior antebrachial cutaneous nerve decrease” on April 1996 electrodiagnostic studies. Dr. DeFiore stated that while appellant had “clinical symptoms of lateral epicondylitis,” he exhibited unusual, unexplained, diffuse swelling and pain throughout the left upper extremity. Dr. DeFiore commented that appellant’s symptoms had “been bothering him since early 1995 and that his pain was possibly “consistent with a polymyalgia rheumatica with a high sedimentation rate ... and the lack of any abnormal joint findings.” Dr. DeFiore prescribed medication and a forearm splint and released appellant to limited duty.

In a September 20, 1996 report, Dr. DeFiore diagnosed “polymyalgia rheumatica” in both arms, with bilateral hand numbness and paresthesias into the fingers. Dr. DeFiore stated that he was “at a puzzle as to find out what is going on with [appellant].”

At the May 12, 1997 hearing, appellant, through his attorney representative, asserted that the diagnosed carpal tunnel syndrome and lateral epicondylitis were causally related to his federal employment. Appellant stated that although he was classified as a filing clerk, he also did computer data entry work, which aggravated his hand and wrist condition due to poor workstation ergonomics. The hearing representative noted that he would consider expanding appellant’s claim to include a repetitive motion injury and left the record open for 30 days to allow appellant to submit additional medical evidence.

Following the hearing, appellant submitted a May 20, 1997 affidavit. He asserted that cleaning out file cabinets and counting pages for microfilming in March 1996 caused severe left “tennis elbow.” In approximately April 1996 while on limited duty, “the work week was changed to four 10 hour days. [Appellant] was working at the computer about 8 out of the 10

---

<sup>6</sup> In August 9, 1996 reports, Dr. T. Craig Beeler, an attending orthopedist, noted that appellant had continued “pain and discomfort in his knee.” He released appellant to light duty with no prolonged sitting or standing, no climbing, pulling, pushing, bending or repetitive stooping, and walking and standing up to two hours per day. Dr. DeFiore reaffirmed these restrictions in an August 13, 1996 slip. These reports do not address appellant’s hand or wrist condition. In an August 15, 1996 fitness-for-duty form report, Dr. John Huffman, an employing establishment physician, released appellant to limited duty with no prolonged sitting or standing, no climbing, pulling, pushing, bending or repetitive stooping, and minimal walking and standing up to two hours per day.” There is no claim before the Board on the present appeal relating to a knee condition.

hours. [Appellant] eventually was told not to use [his] left hand. This made the computer work very slow.” Appellant stated that by September 1996, his left wrist and elbow pain was so severe that the employing establishment gave him “the option of transferring to another facility” farther away, or being terminated with one year’s pay.”<sup>7</sup> The record indicates that appellant did not submit additional medical evidence prior to issuance of the August 20, 1997 decision.

By decision dated and finalized August 20, 1997, the Office affirmed the July 23, 1996 decision, finding that appellant submitted insufficient medical evidence to establish a recurrence of disability on and after April 24, 1996, causally related to the accepted left hand strain. The hearing representative further found that appellant submitted insufficient medical evidence to establish that his carpal tunnel syndrome or left lateral epicondylitis were causally related to factors of his federal employment.

Regarding the first issue, the Board finds that appellant has not established that he sustained a recurrence of disability on or after April 24, 1996 causally related to an accepted March 31, 1995 left hand strain.

When an employee claims a recurrence of disability causally related to an accepted employment injury, he or she has the burden of establishing by the weight of the reliable, probative and substantial medical evidence that the claimed recurrence of disability is causally related to the accepted injury. This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>8</sup> An award of compensation may not be made on the basis of surmise, conjecture, speculation or on appellant’s unsupported belief of causal relation.<sup>9</sup>

As applied to this case, appellant has the burden of establishing a pathophysiologic causal relationship between the accepted March 31, 1995 left hand strain and his left upper extremity condition on and after April 24, 1996. In support of his claim, appellant submitted medical evidence from Dr. Joseph DeFiore, Jr., an attending orthopedist.

Dr. DeFiore did not mention the March 31, 1995 left hand strain except in his initial report of April 19, 1995. Although he mentioned in an August 13, 1996 report, that appellant’s symptoms had “been bothering him since early 1995,” Dr. DeFiore did not attribute any of appellant’s symptoms on and after April 24, 1996 specifically to the March 31, 1995 injury.

---

<sup>7</sup> In a June 3, 1997 letter, the employing establishment commented on the hearing transcript and appellant’s May 20, 1997 affidavit. The employing establishment noted that Dr. DeFiore released appellant from care as of August 22, 1995, without any anticipated permanent impairment, and that appellant’s former supervisor, Mr. James Seeley, did “not recall [appellant] ever informing him that he performed activities that challenged his physical abilities.” The employing establishment noted that in an August 30, 1996 letter, appellant was given the option to resign as his position or be transferred to another organization within the employing establishment, as workforce projections showed his file clerk position was no longer “required.” Appellant then “voluntarily resigned from [the employing establishment] and removed himself from the job market.”

<sup>8</sup> See *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

<sup>9</sup> *Ausberto Guzman*, 25 ECAB 362 (1974).

Therefore, appellant has not met his burden of proof, as he failed to submit sufficient rationalized medical evidence attributing his condition on and after April 24, 1996 to the accepted March 31, 1995 left hand strain.

Regarding the second issue, the Board finds that appellant has not established that he sustained left carpal tunnel syndrome and left epicondylitis causally related to factors of his federal employment.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) medical evidence establishing the presence of the disease or condition, for which compensation is claimed;<sup>10</sup> (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;<sup>11</sup> and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>12</sup> The medical opinion must be one of reasonable medical certainty,<sup>13</sup> 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.<sup>14</sup>

Dr. DeFiore's reports, while descriptive of appellant's symptoms, do not discuss specific duties or factors of appellant's federal employment. Dr. DeFiore did not mention the March 31, 1995 injury, except in his initial report of April 19, 1995. Although he mentioned in an August 13, 1996 report, that appellant's symptoms had "been bothering him since early 1995," he did not attribute any medical condition to factors of appellant's federal employment, or explain how and why the March 31, 1995 left hand strain would cause any medical condition on and after April 24, 1996. Also, Dr. DeFiore did not mention appellant's duties of cleaning out file cabinets in March 1996 or performing computer data entry in April 1996, factors which appellant alleged at the May 12, 1997 hearing and in the May 20, 1997, affidavit caused or aggravated his left upper extremity conditions. Without medical rationale explaining how and why work factors would cause the claimed medical conditions, Dr. DeFiore's reports are of little probative value in establishing causal relationship.<sup>15</sup> Also, Dr. DeFiore did not provide a definitive diagnosis, stating an impression of possible polymyalgia rheumatica and noting

---

<sup>10</sup> See *Ronald K. White*, 37 ECAB 176, 178 (1985).

<sup>11</sup> See *Walter D. Morehead*, 31 ECAB 188, 194 (1979). The Office, as part of its adjudicatory function, must make findings of fact and a determination as to whether the implicated working conditions constitute employment factors prior to submitting the case record to a medical expert; see *John A. Snowberger*, 34 ECAB 1262, 1271 (1983); *Rocco Izzo*, 5 ECAB 161, 164 (1952).

<sup>12</sup> See generally *Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

<sup>13</sup> See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>14</sup> See *William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>15</sup> *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

repeatedly that he could not explain the neurologic involvement, diffuse pain or swelling. The equivocal nature of Dr. DeFiore's reports further diminishes the probative value of his opinion.<sup>16</sup>

Consequently, appellant has not met his burden of proof in establishing a causal relationship between left carpal tunnel syndrome, left epicondylitis and factors of his federal employment.

The decision of the Office of Workers' Compensation Programs dated and finalized August 20, 1997 is hereby affirmed.

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

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Michael E. Groom  
Alternate Member

---

<sup>16</sup> See *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (where the Board held that medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value).