

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ESTHER M. THOMPSON-TAYLOR and U.S. POSTAL SERVICE,
POST OFFICE, Houston, TX

*Docket No. 97-1470; Submitted on the Record;
Issued September 1, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant has met her burden of proof in establishing that she sustained bilateral carpal tunnel syndrome causally related to factors of her federal employment as a manual clerk.

On April 17, 1996 appellant then a 42-year-old occupational health nurse, filed a notice of occupational disease and claim for compensation, Form CA-2, alleging that her bilateral carpal tunnel syndrome was employment related.¹ Appellant stated: "I have worked as a manu[a]l clerk for 16 years performing repetitive movements of hand and wrist such as letter sorting, pushing, pulling and lifting up to 70 [pounds], 8 to 10 hours per/day, 5 to 6 days per/wk. This underlying condition was aggravated by the injury sustained."² Appellant indicated that she first became aware of her condition and first realized that her condition was caused or aggravated by her previous federal employment as a manual clerk on March 28, 1996. The record shows that appellant lost no time from work due to this alleged condition. On the reverse side of this form, the employing establishment indicated that its knowledge of the alleged exposure was in agreement with the statements made by appellant.

In support of her claim appellant submitted a March 6, 1995 report from Dr. Arthur L. Williams, Board-certified in internal medicine, which indicates that appellant was having pain in her right wrist. This report notes that x-rays do not show any evidence of a fracture, dislocation or abnormality, but noted that there was soft tissue swelling. Appellant was treated with pain medication and a carpal tunnel splint and referred to Dr. William H. Fleming a practicing

¹ The Office of Workers' Compensation Programs had previously accepted appellant's March 5, 1995, right wrist traumatic injury claim under case number 16-0256395, for a limited medical expense -- a no time lost case.

² The record shows that appellant last worked as a manual clerk back in September 1993 and became an occupational health nurse for the same employing establishment on October 2, 1993, at which time her employment duties were changed.

neurologist, in order to rule out carpal tunnel syndrome. In his March 18, 1996 electromyogram (EMG) and nerve conduction studies report, Dr. Fleming interpreted: “The EMG findings are those of moderately severe bilateral medial neuropathy at the wrist (carpal tunnel syndrome)” and noted that carpal tunnel release was indicated bilaterally. Dr. Fleming stated:

“REPORT: The right median motor and sensory distal latencies were prolonged associated with reductions in amplitude of the compound muscle action potential and compound sensory nerve action potential.

“The left median orthodromic sensory distal latency was prolonged, associated with reduction in the amplitude of the sensor nerve action potential. The left median motor distal latencies are normal. Motor and sensory nerve conduction studies, including F wave latencies, were otherwise entirely within normal limits.

“Needle examination revealed motor unit potentials that were increased in amplitude and duration, associated with reductions in voluntary motor unit activity in right median innervated hand muscles. No fibrillation potentials or other evidence of denervation was seen. No other abnormalities were noted.”

Additionally, on the first page of a follow-up report dated March 28, 1996 and addressed to Dr. Rosa Tang, a Board-certified ophthalmologist, Dr. Fleming noted that appellant was seen for neurologic follow-up that same day. Dr. Fleming indicated that appellant had no new complaints but was neurologically stable at the time. He stated that lumbar puncture was done on March 21, 1996 and appellant’s cerebral spinal fluid was normal and did not show any evidence of demyelinating disease; that the work-up for the antiphospholipid antibody syndrome was negative; that the antinuclear antibody was negative and the sedimentation rate is normal. In this report, Dr. Fleming diagnosed appellant with ischemic optic neuritis and stated that there was no evidence of demyelinating disease, but noted that appellant also had bilateral carpal tunnel syndrome.

In a letter dated May 22, 1996, the Office advised appellant that the evidence of file was insufficient to establish her claim for compensation benefits and advised her of the type of factual and medical evidence needed to establish her claim and requested that she submit such evidence. The Office requested that appellant explain what her current work duties are and how long she has been performing them, as well as describe any other possible causes of her diagnosed condition. The Office particularly requested that appellant submit a comprehensive medical report from her treating physicians which described her objective symptoms; results of examinations and tests; diagnosis; the treatment provided; the effect of treatment; and the doctor’s opinion, with medical reasons, on the cause of appellant’s condition and an explanation of how specific work factors contributed to or caused her condition. Appellant was allotted 30 days within which to submit the requested evidence. She did not respond or submit any additional evidence.

In a decision dated June 24, 1996, the Office denied appellant’s claim for compensation benefits on the grounds that the evidence of file failed to demonstrate that the claimed condition or disability is causally related to appellant’s federal employment. In an accompanying memorandum, the Office noted that appellant was advised of the deficiencies in her claim on

May 22, 1996 and afforded an opportunity to provide supportive evidence; however, no medical evidence of any kind was submitted to support a causal relationship between the accepted work exposure and the claimed condition or disability.

By letter dated July 8, 1996, appellant requested reconsideration of the Office's June 24, 1996 decision; responded to the Office's May 22, 1996 informational letters on June 12 and 17, 1996 and submitted a medical report from Dr. Arthur L. Williams, a Board-certified internist, dated June 27, 1996; and a certificate of medical examination dating as far back as September 2, 1977 from the employing establishment.

In the June 27, 1996 medical report, Dr. Williams noted that in March 1995 appellant injured her right hand and wrist while pulling on an oxygen tank and developed pain that subsequently became increasingly severe. He indicated that appellant had positive bilateral Phalen's and Tinel's signs and that there was obvious swelling and tenderness. Dr. Williams described appellant's duties as a manual clerk for 16 years (or until October 3, 1993 when appellant became an occupational health nurse) as: heavy lifting, moderate carrying, light carrying, straight pulling, pulling hands overhead and pushing, etc.... Dr. Williams also stated:

"There is no doubt that with a job description like this, [job description of a manual distribution clerk] which runs the gamut of the type of work that [appellant] has to do and requires extensive use of the hands, it makes quite a bit of sense to understand why [appellant] has the problem [carpal tunnel syndrome]."

* * *

"Today, June 27, 1996, [appellant] still has bilateral positive [P]halen's sign, bilateral [T]inel's sign, swelling and tenderness involving the wrists just above the median nerve on both sides. The patient does have documented evidence of bilateral carpal tunnel syndrome. The symptomatology today is greater on the right than the left. To me, [Dr. Williams] this is irrefutable evidence. You can have it evaluated by any physician of your choice. This was done by Dr. Fleming, who is a well-respected physician, with whom I am sure you are familiar."

In a August 12, 1996 merit decision on reconsideration, the Office denied appellant's application for modification of the Office's June 24, 1996 decision on the grounds that the factual and medical evidence submitted in support of her request for reconsideration was not sufficient enough to warrant modification of the prior decision.

By letter dated November 29, 1996, appellant again requested reconsideration of the Office's prior decisions and submitted a October 24, 1996, medical report from Dr. Fleming, and addressed to the referring physician, Dr. Williams. Dr. Fleming indicated that appellant continued to have complaints of pain and numbness in both hands; that appellant's condition is aggravated by using the hands for pushing and pulling; that the EMG and nerve conduction studies were of moderately severe bilateral medial neuropathy at the wrist (carpal tunnel syndrome) and that carpal tunnel release was indicated. Dr. Fleming again revealed that

appellant has positive bilateral Tinel's, the right side greater than the left; that carpal tunnel release was recommended and opined that "[appellant's] carpal tunnel syndrome is in fact related to her occupation."

In a second merit decision on reconsideration dated December 9, 1996, the Office denied appellant's request for modification of its prior decisions on the grounds the additional evidence submitted in support of appellant's second request for reconsideration was insufficient to modify the Office's prior decisions.

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

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.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 the 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.⁵ The medical evidence required to establish a 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,⁶ must be one of reasonable medical certainty⁷ 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.⁸

In the present case, it is not disputed that appellant has bilateral carpal tunnel syndrome. However, the Office found that there was insufficient evidence in the file regarding whether or not an injury or medical condition resulted from appellant's exposure as a manual clerk, when

³ 5 U.S.C. §§ 8101-8193.

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁷ *See Morris Scanlon*, 11 ECAB 384-85 (1960).

⁸ *See William E. Enright*, 31 ECAB 426, 430 (1980).

she was last exposed to those job duties on October 2, 1993; or that the diagnosed condition of bilateral carpal tunnel syndrome is causally related to any employment factors or conditions. The Board notes though, that the Office appears to focus on driving as one of the nonoccupational tasks appellant is engaged in currently as aggravating her current condition. However, the physicians of record have opined that appellant's manual clerk duties in the past, as well as her current duties as an occupational health nurse are implicated in causing and aggravating her bilateral carpal tunnel syndrome, which are documented by various objective test. The Board, therefore, finds that there is sufficient evidence from the physicians of record who have diagnosed appellant with carpal tunnel syndrome and have related this condition to either appellant's manual clerk position by causation or to her occupational nurse position by aggravation or by both positions to require further development of the record. There being no opposing evidence to the contrary, this case must be remanded for further development.

On remand the Office should further develop the medical evidence by preparing a statement of accepted facts and sending appellant and the statement of facts for a second opinion examination as to whether appellant's duties as a manual clerk caused appellant's carpal tunnel syndrome; whether appellant's duties as an occupational nurse caused or aggravated her carpal tunnel syndrome; whether appellant's carpal tunnel syndrome could remain dormant from 1993 through 1995 and manifest itself following the traumatic injury; and whether appellant's current condition of carpal tunnel syndrome is causally related to either her manual clerk position, her occupational nurse position or to both positions. After such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

The decisions of the Office of Workers' Compensation Programs dated December 9, August 12 and June 24, 1996 are hereby set aside and the case is remanded for further proceedings in accordance with this decision.

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

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas

Alternate Member