

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GARMAN J. RIEPEN and DEPARTMENT OF THE ARMY,
ARMY CORPS OF ENGINEERS, MELVERN PROJECT, KS

*Docket No. 98-370; Submitted on the Record;
Issued January 21, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant sustained carpal tunnel syndrome or any other medical condition in the performance of duty causally related to factors of his federal employment.

On August 16, 1994 appellant, then a 61-year-old office assistant,¹ filed an occupational disease claim alleging that he sustained bilateral carpal tunnel syndrome, which he attributed to his required driving tasks which were conditions of his employment. He stated that driving to various locations to pick up parts and make deliveries aggravated his bilateral carpal tunnel syndrome. Appellant stated that symptoms of wrist pain began when he was being treated for a work-related knee injury in August 1991 and that the driving required in his job aggravated the condition. He indicated that he first noticed symptoms of the condition in September 1991.

In a report dated June 15, 1994, Dr. Kurt R. Knappenberger, an orthopedic surgeon, related that appellant felt he had sustained carpal tunnel syndrome and attributed the condition to an incident when an intravenous needle (IV) infiltrated his right hand while he was undergoing a total knee replacement. He stated that electrical testing confirmed bilateral carpal tunnel syndrome and that it was "certainly possible" that the IV infiltration could have aggravated a carpal tunnel condition.

In a report dated September 19, 1995, Dr. Lynn D. Ketchum, appellant's attending plastic surgeon, provided a history of appellant's condition and stated his opinion that using a walker following surgery in 1991 for an employment-related knee condition could have exerted pressure on his median nerves and exacerbated a carpal tunnel condition. He stated that an incident in

¹ According to a medical report, appellant performed work as a heavy machine operator for 20 years prior to his office assistant position.

1989 when a board fell onto appellant's right hand at work and appellant's "hard work" as a heavy machine operator could have aggravated problems with his hands. Dr. Ketchum stated:

"It is my opinion that the cause of [appellant's] hand problems are attributable to 20 years of hard work as a heavy machinery operator, as well as the osteoarthritis of his right thumb which is certainly significantly aggravated by that work with the specific incident when it was hit directly by a board. Regarding his knee surgery, I feel that the use of a walker following that surgery certainly aggravated the median nerve condition by applying direct pressure to it and that fluid retention following that surgery may have brought the preexisting condition to clinical awareness."

In a report dated April 24, 1996, Dr. Ketchum stated that he had reviewed photographs, copies of which were enclosed of the machinery which appellant operated and noted that the machines had numerous levers for both left and right hand use. He provided a description of appellant's job requirements and activities for his heavy machine operator position and also noted that appellant's office work following his knee surgery required the use of his hands and caused discomfort. Dr. Ketchum stated that the crutches appellant used following his 1991 knee surgery aggravated the problems with his hands and wrists. He stated:

"Prior to his knee surgery, heavy equipment operation was [appellant's] principle occupation, although he performed many of the other tasks. All of [the tasks] were physically demanding, and most of them involved constant hand and wrist movement.

"It is my opinion that [appellant's] condition had its primary genesis in his employment."

By decisions dated March 14, 1995 and January 23 and August 26, 1996, the Office of Workers' Compensation Programs denied appellant's claim. The Office noted that appellant and his physician had offered several possible causes or aggravating factors for the carpal tunnel syndrome condition: that it was caused by repetitive motion in performing his duties as a heavy machine operator, that it was caused or aggravated by pressure on his arms when using a walker and crutches after knee surgery, and that it was caused or aggravated by the driving duties required in his office assistant position. The Office stated that there was no contemporaneous medical evidence to establish that the condition was causally related to the use of a walker and crutches. The Office stated that there was insufficient medical evidence explaining why appellant did not develop symptoms until five months after he stopped performing the heavy machine operator job in March 1991. The Office also stated that the medical reports did not contain sufficient explanation as to how appellant's driving duties in his modified position caused or aggravated his carpal tunnel position and noted that the record did not contain medical records dating back to 1991 when appellant stated he had first noticed symptoms of the condition.

By letter dated March 21, 1997, appellant requested reconsideration of his claim and submitted additional evidence.

In a report dated March 6, 1997, Dr. Ketchum noted that appellant's numbness in his hands occurred when he underwent knee surgery, at which time he used a walker, and that it was

well known that people who use walkers and canes can get a compressive neuropathy of either the median or ulnar nerve. He stated that he had seen several patients develop carpal tunnel syndrome following the use of a cane or walker. Dr. Ketchum also noted that appellant had done repetitive work for 20 years as an equipment operator performing hard work that required operating heavy machinery and performing repetitive gripping which resulted in hypertrophy of the flexor tenosynovium which predisposed appellant to the compressive neuropathy at the time that he used a walker. He stated:

“[Appellant] had objective evidence of carpal tunnel syndrome bilaterally with positive Phalen’s test and positive nerve conduction velocities. It seems to follow in a logical sequence that he did not have these problems prior to working with his hands in a heavy duty and repetitive nature or before any work-related injury to his knee requiring that he use a walker, and that he developed the problem subsequent to these activities. It can be established by an objective nature that there is a direct association between those activities and the development of the carpal tunnel syndrome. Carpal tunnel syndrome does not just happen spontaneously. There has to be a cause for it, and these are, in my opinion, logical explanations for the development of his carpal tunnel syndrome with a direct relation to both his work and to his recovery following the knee surgery.”

By decision dated August 13, 1997, the Office denied appellant’s request for further merit review of his claim on the grounds that the evidence submitted in support of his request for reconsideration was cumulative and not sufficient to warrant review of the case.

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

The Board notes that although the August 13, 1997 Office decision denied appellant’s reconsideration request on the grounds that evidence submitted was “cumulative,” the memorandum of the claims examiner clearly reviewed the merits of appellant’s claim together with this medical evidence submitted on reconsideration. The Office weighed the medical reports submitted from Drs. Ketchum and Knappenberger, finding the opinions of the physicians to be speculative in nature and of diminished probative value. For this reason, the Board finds the Office conducted a merit review of appellant’s claim in the August 13, 1997 decision.

In this case, appellant filed an occupational disease claim alleging that he sustained bilateral carpal tunnel syndrome or an aggravation of his carpal tunnel syndrome which he attributed to his employment. He submitted medical evidence in support of his claim.

An employee who claims benefits under the Federal Employees’ Compensation Act² has the burden of establishing the essential elements of his or her claim.³ The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical

² 5 U.S.C. §§ 8101-8193.

³ *Ruthie M. Evans*, 41 ECAB 416, 423-24 (1990); *Donald R. Vanlehn*, 40 ECAB 1237, 1238 (1989).

background, establishing causal relationship.⁴ However, it is well established that proceedings under the Act are not adversarial in nature, and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.⁵

In a report dated June 15, 1994, Dr. Knappenberger, an orthopedic surgeon, related that appellant felt he had sustained carpal tunnel syndrome and attributed the condition to an incident when an IV infiltrated his right hand while he was undergoing a total knee replacement. He stated that electrical testing confirmed bilateral carpal tunnel syndrome and he stated that it was possible that the IV infiltration could have aggravated a carpal tunnel condition.

In a report dated September 19, 1995, Dr. Ketchum, appellant's attending plastic surgeon, provided a history of appellant's condition and stated:

"It is my opinion that the cause of [appellant's] hand problems are attributable to 20 years of hard work as a heavy machinery operator, as well as the osteoarthritis of his right thumb which is certainly significantly aggravated by that work with the specific incident when it was hit directly by a board. Regarding his [employment-related] knee surgery, I feel that the use of a walker following that surgery certainly aggravated the median nerve condition by applying direct pressure to it and that fluid retention following that surgery may have brought the preexisting condition to clinical awareness."

In a report dated April 24, 1996, Dr. Ketchum stated that he provided a description of appellant's job requirements and activities for his heavy machine operator position and also noted that appellant's office work following his knee surgery required the use of his hands. He stated that the crutches appellant used following his 1991 knee surgery aggravated the problems with his hands and wrists. Dr. Ketchum stated:

"Prior to his knee surgery, heavy equipment operation was [appellant's] principle occupation, although he performed many of the other tasks. All of [the tasks] were physically demanding, and most of them involved constant hand and wrist movement.

"It is my opinion that [appellant's] condition had its primary genesis in his employment."

In a report dated March 6, 1997, Dr. Ketchum noted that appellant's numbness in his hands occurred when he used a walker following knee surgery and that it was well known that people who use walkers and canes can get a compressive neuropathy of either the median or ulnar nerve. He also noted that appellant had done repetitive work for 20 years as an equipment operator performing hard work that required operating heavy machinery and performing repetitive gripping which resulted in hypertrophy of the flexor tenosynovium which predisposed appellant to the compressive neuropathy at the time that he used a walker. He stated:

⁴ *Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

⁵ *Dorothy L. Sidwell*, 36 ECAB 699, 707 (1985); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

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The Board notes that while none of the reports of appellant’s attending physicians are completely rationalized, they are consistent in indicating that appellant sustained an injury to his hands attributable to factors of his employment and are not contradicted by any substantial medical or factual evidence of record. Therefore, while the reports are not entirely sufficient to meet appellant’s burden of proof to establish his claim, they raise an uncontroverted inference between appellant’s claimed condition and his employment and are sufficient to require the Office to further develop the medical evidence and the case record.⁶

Accordingly, the case must be remanded to the Office for further evidentiary development regarding the issue of whether appellant sustained an injury to his hands which was caused or aggravated by factors of his employment. After such development of the case record as the Office deems necessary, a *de novo* decision should be issued.

The August 13, 1997 decision of the Office of Workers’ Compensation Programs is set aside and the case is remanded for further action consistent with this decision of the Board.

Dated, Washington, D.C.
January 21, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁶ *John J. Carlone*, 41 ECAB 354, 358 (1989).