

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD J. HOLSINGER and DEPARTMENT OF LABOR,
OFFICE OF WORKERS' COMPENSATION PROGRAMS, Philadelphia, PA

*Docket No. 99-644; Submitted on the Record;
Issued June 26, 2000*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established that he developed a right elbow/forearm condition causally related to his federal employment.

On December 5, 1996 appellant, a 45-year-old claims examiner, filed an occupational disease claim (Form CA-2) alleging that keyboard work on the computer and pulling staples from documents resulted in a flare-up of his right forearm pain. He noted that he first realized the relationship between his elbow condition and his work in October 1993. Appellant stated that the flare-ups of pain became severe in October 1996. In a January 13, 1997 narrative statement, he asserted that he began to experience pain in his right forearm in October 1993 when he was operating the keyboard of his personal computer, operating a hole puncher, using a stapler and a stapler puller, shuffling through papers, writing and printing. Appellant's computer station was fitted with a tray for his keyboard in late 1995. In April 1995, he was diagnosed with tendinitis. He also related that since October 1995, his typing increased to at least five hours of work per day on the keyboard.

By decision dated March 17, 1997, the Office of Workers' Compensation Programs denied the claim on the grounds that the medical evidence was insufficient to establish an injury causally related to appellant's employment factors. Following three requests for reconsideration, the Office denied modification of the claim, after performing merit reviews on each request, in decisions dated June 27, 1997, April 23 and November 9, 1998.

The Board has reviewed the record and finds that appellant has not established an injury causally related to his federal employment.

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.¹ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and his federal employment.² Neither the fact that the condition became manifested during a period of federal employment, nor the belief of appellant that the condition was caused or aggravated by his federal employment, is sufficient to establish causal relation.³

The record indicates that appellant had an automobile accident in 1993 and had a herniated disc. He did not injure his elbows. The medical treatment notes from Dr. Trevor Yardley, a Board-certified orthopedic surgeon, reveal that in October 1996, appellant was given a wrist split for his right tennis elbow, physical therapy was recommended and surgery was suggested as an eventual possibility. In November 1996, appellant complained of left proximal olecranon or triceps tendon pain and a tendinitis/mild bursitis of the left elbow was diagnosed. By January 1997, his symptoms on the left and right elbow had lessened a bit. In February 1997, appellant's left elbow had improved, but he continued to complain about his right tennis elbow. Discomfort in the right hand was also noted. Physical therapy was continued for the right tennis elbow and the possibility of surgery was again discussed. In late February 1997, appellant was ready for discharge. However, in April 1997, he complained of right elbow pain and requested an electromyogram (EMG) for possible carpal tunnel. The April 1997 EMG and nerve conduction study revealed no evidence for carpal tunnel syndrome bilaterally or a peripheral polyneuropathy. However, there was evidence for chronic motor unit changes on the right at the C5-6 level. This was noted to be consistent with a moderate chronic radiculopathy at that level. No evidence of acute denervation was present. Also in April 1997, appellant experienced mild low back pain with cervical pain. He was placed on work restrictions and the lumbar pain improved following physical therapy. By May 1997 it was noted that appellant failed conservative treatment regarding his right tennis elbow and was going to require surgery. In a May 9, 1997 report, Dr. Barbara J. Campbell, a Board-certified orthopedic surgeon, noted appellant's chronic problem with his right lateral elbow and noted that the nerve studies showed some C5 or 6 disc radiculopathy and that appellant noted in January 1994 that he had a disc herniation in his neck treated with therapy and chiropractic treatment. Dr. Campbell stated: "I think the fact that [appellant] does have a known disc herniation in a distribution that would give pain into the radial forearm and elbow area makes me feel that we should proceed first with a therapy program for his neck ... [before] surgery would be indicated [on the lateral epicondyle]." On August 4, 1997 Dr. Campbell performed surgery on appellant's right tennis elbow condition.

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

² *See Walter D. Morehead*, 31 ECAB 188 (1979).

³ *Manuel Garcia*, 37 ECAB 767 (1986).

In the present case, appellant has identified the repetitive use of keyboarding on his computer and other functions within his federal employment as contributing to his right elbow/forearm condition, but the medical evidence of record fails to contain a reasoned medical opinion on causal relationship. Treatment notes from Dr. Yardley dated September 25, 1996 through April 23, 1997 refer to a right tennis elbow and the development of a left triceps tendinitis, but fail to provide an opinion supporting causal relationship between appellant's job duties and his condition. Similarly, an April 28, 1995 office note from Dr. Joel E. Borkow, a Board-certified plastic surgeon, did not provide an opinion concerning causal relationship. In a February 28, 1997 report, Dr. Yardley stated that appellant developed recurrent right tennis elbow over several years. He noted that appellant responded to conservative treatment. Dr. Yardley noted that appellant found his repetitive keyboard activities, hole punching in papers, pulling staples and the use of the stapler and pulling case files causes flare-ups of the elbow problem periodically. On that basis, he supported causal relationship. In a May 2, 1997 report, Dr. Yardley again supported that appellant's right tennis elbow was work related and noted that as conservative treatment had failed, surgery was required. His opinion on causation, however, is lacking in medical rationale. The activities of hole punching, pulling staples and using the stapler, and pulling and lifting case files, are activities which appellant performs on an intermittent basis. Moreover, in his narrative statement of January 13, 1997, appellant attributed the flare-up of his elbow pain in 1995 due to the keyboard of his computer being at the desk level position, which was subsequently corrected with a tray in the latter part of 1995. He also attributed the flare-up of his elbow pain to the October 1995 increase in computer typing of five hours per day. Dr. Yardley, however, has not explained how or whether an increase in repetitive typing would produce symptoms as a tray was in place and whether the repetitive key stroking caused or materially aggravated an elbow condition. In light of Dr. Campbell's report which attributes appellant's right elbow condition to a disc herniation and C5-6 radiculopathy, Dr. Yardley's opinion that regarding causation is speculative at best as it is not based on a complete medical background or supported by medical rationale.

In a letter addressed to Dr. Campbell, appellant stated that the surgery alleviated his tennis elbow discomfort, but he now is experiencing right forearm pain. He then asked Dr. Campbell a few questions. In a January 13, 1998 report, Dr. Campbell answered "yes" to appellant's questions that the forearm pain he is now experiencing is caused by the herniated disc and that a home traction unit would help to alleviate some of his symptoms. Dr. Campbell stated that the need for future treatments for neck, forearm or wrist would be nerve related and not tendinitis. In another letter to Dr. Campbell, appellant asked Dr. Campbell whether he would conclude that the right "tennis elbow" condition was caused by overuse during his federal employment. Dr. Campbell replied on January 30, 1998 that the tennis elbow was aggravated by the work. He then responded "yes" to appellant's questions regarding whether his treatment has successfully been concluded. However, Dr. Campbell's answers to appellant's questions are unrationalized to support a causal relation between his elbow condition and federal employment. Given appellant's history of a preexisting cervical disc herniation and Dr. Campbell's earlier assertion that the disc herniation resulted in a distribution which would produce pain into the radial forearm and elbow area, a blanket statement of "the tennis elbow was aggravated by the work" without any medical explanation is not enough to support appellant's burden of proof.

In an October 21, 1998 report, Dr. Yardley noted that even after appellant had surgery for his elbow, treatment was still required. He stated that appellant has a work-related problem which causes him recurrent episodes of right lateral elbow pain which radiates into the forearm. Dr. Yardley also opined that the cervical spine disorder was not causing appellant's complaints. However, he fails to discuss what work factors would have caused appellant's elbow problems as his keyboard was ergonomically positioned in 1995. Additionally, Dr. Yardly fails to explain why, after appellant was surgically treated in August 1997, he continues to require treatment for his right elbow condition in light of Dr. Campbell's opinion on January 13, 1998 that any continuing right forearm pain was due to the preexisting cervical disc condition. Accordingly, without an additional explanation or rationale, Dr. Yardley's report is not sufficient to establish causal relationship.

Accordingly, the Board finds that the medical evidence does not contain a reasoned medical opinion, based on a complete background, on causal relationship between appellant's right "tennis elbow"/forearm conditions and the identified employment factors. It is appellant's burden to submit such evidence and he has failed to meet his burden in this case.

The decision of the Office of Workers' Compensation Programs dated November 9 and April 23, 1998 are affirmed.

Dated, Washington, D.C.
June 26, 2000

David S. Gerson
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member