

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY J. EDDINGS and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Memphis, TN

*Docket No. 99-114; Submitted on the Record;
Issued May 19, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained an injury causally related to factors of employment.

The Board has duly reviewed the case record and finds that this case is not in posture for decision.

On June 28, 1995 appellant, then a 52-year-old tax examining agent, filed an occupational disease claim, alleging that factors of employment caused carpal tunnel syndrome and osteoarthritis of the right thumb. She did not stop work or change her work duties. By letter dated November 3, 1995, the Office of Workers' Compensation Programs informed appellant of the type information needed to support her claim and by decision dated April 25, 1996 denied the claim on the grounds that the medical evidence did not establish that her condition was causally related to employment. On May 22, 1997 the Office reissued the prior decision to protect appellant's appeal rights.¹ On June 20, 1997 appellant, through counsel, requested a hearing that was held on February 23, 1998. At the hearing appellant testified regarding her job duties and physical condition, stating that she last worked on September 28, 1995 and had retired on disability. Subsequent to the hearing, appellant and the employing establishment submitted

¹ In the interim, appellant had appealed to the Board and in an order dated December 16, 1996, Docket Number 97-1739, the case was remanded to the Office for reconstruction and proper assemblage of the case record.

additional evidence. In a February 23, 1998 decision, the Office hearing representative affirmed the prior decision.² The instant appeal follows.

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 factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the 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 factors identified by the claimant. 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 the identified factors. The belief of appellant that the condition was caused or aggravated by the identified factors is not sufficient to establish causal relation.³

The record in this case contains a job description that indicates that appellant's job duties included researching pertinent data including computer transcripts and the input of information regarding taxpayers' accounts as well as general knowledge of the structure and contents of the employing establishment computer system to include knowledge of terminal operations for research purposes, adjustments and correspondence. At the hearing appellant testified that she began employment at the employing establishment as a data transcriber in which she typed tax information into a computer all day long. She stated that beginning in 1986 she began full-time employment in accounts maintenance researching taxpayers' records on the computer.⁴

Regarding the medical evidence, initially the Board notes that the record contains unsigned treatment notes dated May 5 and June 2, 1995 purported to be from Dr. K.B. Ragsdale, and an unsigned report dated March 12, 1998 purported to be from Dr. Joseph C. Boals, III. As these reports were not signed by the physician, they have no probative value in establishing appellant's claim.⁵ The probative medical evidence of record consists of a March 6, 1998 report from Dr. K. Blake Ragsdale, a Board-certified orthopedic surgeon, who stated that appellant had been his patient since May 5, 1995 and was diagnosed with CMC osteoarthritis of the right

² The evidence submitted by the employing establishment included a removal letter dated April 23, 1996 indicating that appellant was being terminated for improperly accessing employing establishment tax information. An Equal Employment Opportunity Commission settlement agreement signed on January 6 and 8, 1997, indicated that appellant was to be allowed to resign for personal reasons but was not to apply for or accept any employment with the employing establishment in the future. In a May 6, 1996 statement, appellant indicated that she was terminated because she was disabled.

³ *Lourdes Harris*, 45 ECAB 545 (1994).

⁴ Appellant testified that she also worked in other departments that did not require keyboarding.

⁵ *See Merton J. Sills*, 39 ECAB 572 (1988).

thumb and mild carpal tunnel syndrome of the right hand which rendered her “virtually helpless” as far as her hands were concerned. Regarding causation, he stated:

“It is my opinion that, more likely than not, her condition was aggravated as a direct result of her employment as a tax examiner for the [employing establishment] in which she has spent extensive time working on a computer keyboard since at least 1986.”

In this case, the Board finds that the March 6, 1998 report from Dr. Ragsdale constitutes sufficient evidence in support of appellant’s claim to require further development by the Office as he provides an explanation that extensive work at the computer aggravated her condition. While this report lacks detailed medical rationale sufficient to discharge appellant’s burden of proof to establish by the weight of reliable, substantial and probative evidence that her arthritic thumb condition and carpal tunnel syndrome were aggravated by employment factors, this does not mean that this report may be completely disregarded by the Office. It merely means that its probative value is diminished.⁶ In the absence of medical evidence to the contrary, the report is sufficient to require further development of the record.⁷ It is well established that proceedings under the Act⁸ are not adversarial in nature,⁹ and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.¹⁰ On remand the Office should compile a statement of accepted facts and refer appellant, together with the complete case record and questions to be answered, to a Board-certified specialist for a detailed opinion on the relationship of appellant’s hand condition and employment. After such development as the Office deems necessary, a *de novo* decision shall be issued.

⁶ See *Delores C. Ellyet*, 41 ECAB 992 (1990).

⁷ *John J. Carlone*, 41 ECAB 354 (1989). The Board notes that the case record does not contain a medical opinion contrary to appellant’s claim and further notes that the Office did not seek advice from an Office medical adviser or refer the case for a second-opinion evaluation

⁸ 5 U.S.C. § 8101 *et seq.*

⁹ See, e.g., *Walter A. Fundinger, Jr.*, 37 ECAB 200 (1985).

¹⁰ See *Dorothy L. Sidwell*, 36 ECAB 699 (1985).

The decision of the Office of Workers' Compensation Programs dated April 3, 1998 is hereby vacated and the case is remanded for proceedings consistent with this opinion.

Dated, Washington, D.C.
May 19, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

A. Peter Kanjorski
Alternate Member