

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT JACKSON and U.S. POSTAL SERVICE,
POST OFFICE, Atlanta, GA

*Docket No. 99-1903; Submitted on the Record;
Issued November 1, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS
PRISCILLA ANNE SCHWAB

The issue is whether appellant met his burden of proof to establish that his alleged carpal tunnel condition was sustained in the performance of duty.

On July 31, 1998 appellant, then a 33-year-old mailhandler, filed a claim for benefits, alleging that he sustained a bilateral carpal tunnel condition caused or aggravated by factors of his employment.

On August 20, 1998 the Office of Workers' Compensation Programs requested that appellant submit additional information in support of his claim, including a medical report and opinion from a physician, supported by medical reasons, describing the history of the alleged work incident and indicating how the reported work duties caused or aggravated the claimed injury, plus a diagnosis and clinical course of treatment for the injury.

In response, appellant submitted reports dated June 29 and July 16, 1998 from Dr. Howard J. Colier, a Board-certified orthopedic surgeon, a July 8, 1998 report from Dr. Thomas J. Wright, Board-certified in psychiatry and neurology, and an August 25, 1998 report from Dr. B. David Blake, a physician.

In his June 29, 1998 report, Dr. Colier noted appellant's complaints of pain, stated findings on examination and scheduled appellant for diagnostic tests. In his July 16, 1998 report, Dr. Colier noted appellant's history, stated that a diagnosis of carpal tunnel syndrome was not conclusive, and advised that a magnetic resonance imaging (MRI) scan for the cervical spine was warranted.

Dr. Wright stated that right upper extremity nerve conduction study results were abnormal, revealing slowing of the right median sensory nerve and conduction velocities, compatible with mild carpal tunnel syndrome on the right. He advised that electromyogram (EMG) studies on the right upper extremity were within normal limits. Dr. Blake merely stated in his report that he examined appellant on April 27 and June 22, 1998 for shoulder and back

pain. Appellant also submitted a written statement, received by the Office on September 1, 1998, in which he indicated that his alleged condition was caused or aggravated by the type of repetitive work his job entailed, *i.e.*, keying, lifting, pushing and pulling.

By decision dated October 14, 1998, the Office denied appellant's claim on the grounds that the evidence of record failed to establish that appellant sustained the claimed condition in the performance of duty.

By facsimile dated November 12, 1998, appellant's representative requested reconsideration. In support of his request, appellant submitted a November 4, 1998 report from Dr. Colier, who stated:

“[Appellant's] main problem now is the right upper extremity symptoms and the numbness in his hand. The symptoms are worse on overuse and also worse at night. It does wake him during the night finding his hand to be numb. Upon examination there was a full range of motion of the shoulder and elbow. Reflexes were equal. There was decreased sensation of the median nerve distribution on the right and a positive Tinel's sign at the carpal tunnel.... His subjective complaints are pain and numbness, worse at night. The electrodiagnostic studies did confirm carpal tunnel syndrome on the right side.... Due to the type of work that [appellant] does, I feel this diagnosis of carpal tunnel syndrome is caused by his repetitive actions at work”

Dr. Colier recommended carpal tunnel release surgery to ameliorate appellant's symptoms and advised that appellant should stay off work for two weeks following the procedure. He stated that appellant would then be able to return to limited duty for four to six weeks, after which he could return to full duty.

By decision dated February 1, 1999, the Office denied reconsideration, finding that appellant did not submit evidence sufficient to warrant modification of the October 14, 1998 Office decision.

The Board finds that appellant has not met his burden of proof to establish that his alleged carpal tunnel condition was sustained in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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.² These are the

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

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. The medical evidence required to establish causal relationship is usually rationalized medical 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, must be one of reasonable medical certainty 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.⁴

In this case, the only medical evidence appellant submitted in support of his claim were the reports from Drs. Colier, Wright and Blake. These reports contained findings on examination and brief, conclusive statements summarily indicating that appellant had a right-sided carpal tunnel condition caused by repetitive activities at work, but did not provide a history of appellant's employment duties and did not provide a probative, rationalized opinion that this condition was caused or aggravated by factors or conditions of his federal employment.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁵ Causal relationship must be established by rationalized medical opinion evidence.

The Office advised appellant of the type of evidence required to establish his claim; however, appellant failed to submit such evidence. None of the reports appellant submitted contains any rationalized medical opinion relating the cause of appellant's condition to specific factors of his federal employment. The reports did not indicate an awareness of appellant's specific employment duties and did not explain the process through which factors of appellant's

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Id.*

⁵ *See Id.*

employment would have caused the carpal tunnel condition. Thus, they are of limited probative value in that they did not provide adequate medical rationale in support of their conclusions.⁶

Accordingly, as appellant failed to submit any probative, rationalized medical evidence in support of a causal relationship between his claimed condition and factors or incidents of employment, the Office properly denied appellant's claim for compensation.

The decisions of the Office of Workers Compensation Programs dated October 14, 1998 and February 1, 1999 are hereby affirmed.

Dated, Washington, DC
November 1, 2000

David S. Gerson
Member

Priscilla Anne Schwab
Alternate Member

Willie T.C. Thomas; Member, dissenting:

Appellant herein, Robert Jackson, filed an occupational disease claim for carpal tunnel syndrome and submitted medical reports by Dr. Howard J. Colier, a Board-certified orthopedic surgeon; by Dr. Thomas J. Wright, Board-certified in neurology; and by Dr. David Blake.

By initial decision dated October 14, 1998, the Office stated that none of appellant's physicians "provides a secure diagnosis in relation to your condition" and denied the claim.

In a decision on reconsideration dated February 1, 1999, a senior claims examiner, William J. Plunkett, again denied the claim. As the basis for his decision, Mr. Plunkett stated:

"The period of exposure to repetitive keying is only about one month. It is highly unlikely that you could have developed carpal tunnel syndrome in so short a period of time.

⁶ *William C. Thomas*, 45 ECAB 591 (1994).

“Dr. Colier has not demonstrated that he has knowledge of an accurate history of your activities at work and elsewhere and his opinion is speculative as to causation.”

The record herein does not contain a single contrary medical opinion that appellant does not have carpal tunnel syndrome causally related to his employment duties at work. In this connection, Dr. Colier stated in his report dated November 4, 1998:

“[Appellant’s] main problem is the right upper extremity symptoms and the numbness in his hand. The symptoms are worse on overuse and also worse at night. It does wake him during the night finding his hand to be numb. Upon examination, there was a full range of motion of the shoulder and elbow. Reflexes were equal. There was decreased sensation of the median nerve distribution on the right and a positive Tinel’s sign at the carpal tunnel. He has been treated in the past with anti-inflammatory medication without much relief.

“Arrangements were then made for electrodiagnostic studies which did reveal carpal tunnel syndrome with median nerve compression at the wrist level. Because of some neck pain, a cervical MRI [scan] was ordered and this was entirely normal.

“I have injected the carpal tunnel syndrome on the right side. He did not obtain any relief.

“At this point, I would recommend a carpal tunnel release as an out-patient procedure.

“His objective findings were a positive Tinel[‘s] sign and decreased sensation of the median nerve distribution. His subjective complaints are pain and numbness, worse at night. The electrodiagnostic studies did confirm carpal tunnel syndrome on the right side.

“Since he has failed conservative treatment, the next procedure would be the out-patient surgery and I would expect a full recovery.

“Due to the type of work that Mr. Jackson does, I feel this diagnosis of carpal tunnel syndrome is caused by his repetitive actions at work.”

The senior claims examiner did not refer this claim to an Office medical adviser or medical consultant to ascertain whether appellant had submitted sufficient medical and factual evidence to establish the diagnosis of carpal tunnel syndrome. Instead, Mr. Plunkett postulated: “The period of exposure to repetitive keying is only about one month. It is highly unlikely that you could have developed carpal tunnel syndrome in so short a period.”

Mr. Plunkett did not introduce into the record his curriculum vitae revealing the source of his medical degree, the medical source for his statement that it is highly unlikely this appellant

could have developed carpal syndrome keying in only one month and that none of the other activities reported by appellant was capable of causing carpal tunnel syndrome.

I find that appellant has introduced persuasive medical reports including a history of repetitive activity, a trial period of conservative care including injections into the affected area, diagnostic tests revealing carpal tunnel syndrome, objective and subjective symptoms of carpal tunnel syndrome and more importantly, a secure diagnosis of right carpal tunnel syndrome with a recommendation and request for approval of surgery by his Board-certified orthopedic surgeon.

The record does not contain a single contrary medical opinion. It is for this reason that I feel compelled to record this dissent.

Willie T.C. Thomas
Member