

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PATRICIA A. SALVATORE and U.S. POSTAL SERVICE,  
POST OFFICE, Bell, CA

*Docket No. 00-2436; Submitted on the Record;  
Issued June 4, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a right hand condition in the performance of duty on December 26, 1998.

The Board finds that appellant did not meet her burden of proof to establish that she sustained a right hand condition in the performance of duty on December 26, 1998.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing 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.<sup>2</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.<sup>4</sup> Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

<sup>4</sup> *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

caused a personal injury.<sup>5</sup> The term “injury” as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.<sup>6</sup>

On May 19, 1999 appellant, then a 52-year-old postal clerk, filed a traumatic injury claim alleging that she sustained a torn tendon of her right hand at work on December 26, 1998. Appellant stated, “I was pulling with both hands a 300- to 400-pound box of bulk mail approximately 30 feet. When I let go of the handle, I noticed pain in my right hand.” Appellant stopped work on December 31, 1998. By decision dated July 8, 1999, the Office of Workers’ Compensation Programs denied appellant’s claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained a right hand injury due to the accepted December 26, 1998 employment incident. By decisions dated November 4, 1999 and April 10, 2000, the Office affirmed its July 8, 1999 decision.

Appellant did not submit sufficient medical evidence to establish that she sustained a right hand condition in the performance of duty on December 26, 1998. In support of her claim, appellant submitted a May 20, 1999 report in which a physician identified as “Landis” provided a description of the December 26, 1998 employment incident and diagnosed “tendinitis to the right 3<sup>rd</sup> and 5<sup>th</sup> fingers versus Dupuytren’s contracture.” Dr. Landis answered “Yes” to a question regarding whether his findings and diagnosis were consistent with appellant’s account. The submission of this report is not sufficient to establish appellant’s claim because Dr. Landis did not provide a clear diagnosis of appellant’s right hand condition and did not provide any medical rationale in support of his apparent opinion that the condition was related to the December 26, 1998 employment incident.<sup>7</sup> Dr. Landis did not describe the medical process through which the employment incident could have caused such a condition and his report does not contain a complete factual and medical history.<sup>8</sup> Such medical rationale is especially necessary in the present in that it appears that appellant did not seek medical care for her claimed condition until about five months after the December 26, 1998 employment incident.

Appellant also submitted a May 26, 1999 report in which Dr. Paul J. Casey, an attending Board-certified orthopedic surgeon, provided a description of the December 26, 1998 employment incident and diagnosed probable factitious disorder of the right hand. He noted that appellant exhibited normal flexion of her right hand when distracted and did not provide any indication that she had an employment-related right hand condition. The record also contains a May 19, 1999 report in which a physician identified as “Sun” diagnosed “right 3<sup>rd</sup> to 5<sup>th</sup> finger

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<sup>5</sup> *John J. Carlone*, 41 ECAB 354, 356-57 (1989); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

<sup>6</sup> *Elaine Pendleton*, *supra* note 2; 20 C.F.R. § 10.5(a)(14).

<sup>7</sup> See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

<sup>8</sup> See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history). Moreover, it remains unclear whether Dr. Landis had the appropriate specialty training to evaluate appellant’s condition.

tendon sheath inflammation versus Dupuytren's contracture." Dr. Sun did not provide any opinion on the cause of appellant's right hand condition.

Moreover, the record contains medical evidence which indicates that appellant did not sustain a right hand condition due to the December 26, 1998 employment incident. In a report dated October 15, 1999, Dr. Moosa Kohamin, an attending Board-certified orthopedic surgeon, indicated that appellant's right hand condition was not due to the December 26, 1998 employment incident. Dr. Kohamin noted that the employment incident was not competent to cause such a severe condition as that reported by appellant.<sup>9</sup>

The April 10, 2000 and November 4, 1999 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC  
June 4, 2001

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>9</sup> In report dated June 15, 1999, Dr. Kohamin had suggested that appellant's right hand condition was due to the December 26, 1998 employment incident. However, Dr. Kohamin indicated in his October 15, 1999 report that he did not have a complete factual and medical history of appellant's case at that time.