

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CARRIE JONES and U.S. POSTAL SERVICE,
CHURCH STREET STATION, New York, NY

*Docket No. 00-223; Submitted on the Record;
Issued May 22, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury to her left hand causally related to her employment-related right carpal tunnel syndrome.

On June 1, 1990 appellant, then a 46-year-old letter carrier, sustained carpal tunnel syndrome and tendinitis of the right hand in the performance of duty.¹

In a report dated September 6, 1995, Dr. Placido A. Menezes, a Board-certified orthopedic surgeon, stated that, following surgery on her right hand for carpal tunnel syndrome, appellant began using her left hand repeatedly to sort the mail and began having symptoms of left carpal tunnel syndrome.

In a disability certificate dated October 23, 1995, Dr. Menezes diagnosed bilateral carpal tunnel syndrome and indicated that appellant was to rest and undergo physical therapy for six weeks and then be reevaluated.

In a report dated January 26, 1996, Dr. Menezes stated that appellant complained of pain in both hands and the cervical spine. He recommended a surgical release of the left carpal tunnel.

In a report dated May 10, 1996, Dr. Menezes stated that appellant complained of pain in the cervical spine with pain radiating to her shoulders with numbness in both hands, the left side worse than the right.

In a report dated August 13, 1996, Dr. Ramon Vallarino stated that appellant had tingling, numbness and pain in her left digits, particularly the second, third and fourth, which

¹ Appellant's claims for recurrences of disability on February 3 and March 6, 1997 were denied by the Office of Workers' Compensation Programs on July 21, 1997.

was worse at night. He stated that she had a positive Tinel's sign of the left hand. Dr. Vallarino provided the results of a nerve conduction test which suggested left carpal tunnel syndrome due to delay in the motor and sensory latency of the left median nerve.

In a report dated October 28, 1996, Dr. Menezes stated that appellant complained of pain in her cervical spine and left hand. He notes that she had positive Tinel's and Phalen's signs on the left and nerve conduction and electromyographic studies show evidence of left carpal tunnel syndrome.

In two reports dated January 3, 1997, Dr. Menezes related that on that date appellant was working when she began experiencing increasing pain of the wrists and cervical spine. He noted that examination of the left wrist revealed atrophy of the abductor pollicis brevis with positive Tinel's sign.

In a report dated March 7, 1997, Dr. Menezes stated that on March 6, 1997 the pain in appellant's hands became so severe that she had to stop working.

In recurrence claim forms dated February 8 and March 31, 1997, appellant alleged that she had a recurrence of disability causally related to her employment-related right carpal tunnel syndrome. She also indicated that she had developed carpal tunnel syndrome in her left hand.

In a report dated March 14, 1997, Dr. Ki Ho Moon, an orthopedic surgeon, provided findings on examination and diagnosed left and right carpal tunnel syndrome and indicated that appellant should have surgery on the left hand and possible repeat surgery on the right hand.

In a report dated June 27, 1997, Dr. Menezes stated that appellant had pain in the left wrist associated with numbness of the fingers. Findings on examination included a positive Tinel's sign over the median nerve and atrophy of the abductor pollicis brevis.

In a report dated August 8, 1997, Dr. Menezes stated that appellant was unable to perform even light duty due to severe neurological problems in both hands. Findings on examination included atrophy of the abductor pollicis brevis on the left, positive Tinel's sign, and pain on range of motion of the wrist.

In a report dated November 21, 1997, Dr. Menezes related that appellant had pain in the cervical spine, pain in the right wrist and numbness in the left hand. Findings on examination included diminished sensation in the distribution of the median nerve with a positive Tinel's sign.

In a report dated January 28, 1998, Dr. Menezes indicated that appellant began increased use of her left hand because of her employment-related right carpal tunnel syndrome, resulting in overuse of the left upper extremity and left carpal tunnel syndrome. He recommended surgery on the left hand.

In a report dated March 27, 1998, Dr. Menezes stated that appellant had pain in both hands and her cervical spine. He stated that her carpal tunnel syndrome in both hands was due to

repetitive movements in her job. Dr. Menezes stated that she was totally disabled and needed surgery on her left hand for her carpal tunnel syndrome.

On June 20, 1998 appellant filed a claim alleging that she sustained an injury to her left hand on March 1, 1996 which she attributed to increased use of her left hand after surgery on her right hand for her employment-related right carpal tunnel syndrome.

By decision dated September 24, 1998, the Office denied appellant's claim on the grounds that the evidence of record failed to establish that she sustained an injury to her left hand causally related to her employment-related carpal tunnel syndrome.

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

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 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

While none of the reports of appellant's attending physician, Dr. Menezes, is completely rationalized, they are consistent in indicating that appellant sustained an employment-related injury to her left hand 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 her claim, they raise an uncontroverted inference of causation between appellant's claimed condition and her right hand employment injury, 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 of whether appellant sustained an employment-related injury to her left hand. After

² 5 U.S.C. §§ 8101-8193.

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

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

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

⁶ See *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978). The Board further notes that, in the present case, the record contains no 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 to an Office referral physician for a second opinion.

such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

The September 24, 1998 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further development consistent with this decision.

Dated, Washington, DC
May 22, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member