

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NICHOLLE L. GIDEON and U.S. POSTAL SERVICE,
POST OFFICE, Modesto, CA

*Docket No. 02-2014; Submitted on the Record;
Issued December 12, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant developed a disease or illness causally related to factors of her federal employment.

On November 16, 2001 appellant, a city letter carrier born August 2, 1966, filed an occupational disease claim alleging that she developed a left arm and wrist condition in the performance of duty. Appellant asserted that on November 4, 2001 she awakened at 2:00 a.m. with burning and numbness in her left arm and fingers. Appellant indicated that she took off work from November 5 to 10, 2001 and received medical treatment. Appellant subsequently filed a traumatic injury claim alleging that on November 3, 2001 she was using pliers to cut open bundles of books when she felt a sharp pain go through her wrist up to her shoulder. The Office of Workers' Compensation Programs combined the traumatic injury claim with the initial occupational disease claim alleging the same injury for processing.

In a letter dated December 19, 2001, the Office requested additional factual and medical information in order to establish the claim. Appellant was allotted 30 days in which to submit additional evidence.

By decision dated January 23, 2002, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that the claimed condition was causally related to the claimed event as required by the Federal Employees' Compensation Act.¹

The Board finds that appellant has not established that she sustained an injury causally related to her federal employment.

¹ Appellant submitted additional evidence and a reconsideration request after issuance of the January 23, 2002 decision. The record does not reflect that the Office has issued a decision regarding that request. However, since the Board acquired jurisdiction over the appeal on June 30, 2002, any Office decision issued subsequent to June 30, 2002 on this issue will be null and void. The Board and the Office may not have concurrent jurisdiction over the same issue in a case; *see Russell E. Lerman*, 43 ECAB 770 (1992) and *Douglas E. Billings*, 41 ECAB 880 (1990).

An employee seeking benefits under the Act² 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.³ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition, for which compensation is claimed; 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.⁵ Neither the fact that the condition became manifest 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.⁶

In this case, appellant has failed to meet her burden of proof in establishing through medical evidence that her claimed injury was caused by employment factors. Causal relationship is a medical issue, which requires a physician to explain how or why he or she believes that the accident, incident, or work factor caused or affected the physical condition, and the objective findings that support that conclusion.

The medical evidence in this case includes a report dated November 7, 2001 from Dr. Andrew Miller, a Board-certified internist, who indicated that appellant presented that day for examination with pain and tingling sensation in her left wrist radiating down to her left hand and involving her pinky and ring finger. The physician indicated that her symptoms had been present for one to two weeks; however, the report noted that the date of onset of her illness was November 4, 2001. Dr. Miller reviewed his physical examination of appellant and stated: “Focus of exam[ination] of her left wrist reveals no lacerations or abrasions. No ecchymosis. There is no visible edema. There is full range of motion of the elbow and wrist and all phalanges. There is no point tenderness. Phalen’s, Tinel’s and Finkelstein’s are all negative.” Dr. Miller then diagnosed repetitive motion injury to appellant’s left wrist.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *David M. Ibarra*, 48 ECAB 218 (1996).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *Manuel Garcia*, 37 ECAB 767 (1986).

In a duty status report dated December 12, 2001, Dr. Martin Pricco, a Board-certified internist, noted that appellant's date of injury was indicated as November 3, 2001, and the injury was described as having occurred by "cutting straps on mailing left arm/wrist." The clinical findings were noted as "left hand tenderness and edema" and the diagnosis was noted as "left forearm and shoulder strain, CTS [carpal tunnel syndrome]." Dr. Pricco indicated that appellant could resume modified duty on December 12, 2001.

In work status and progress reports dated December 12 and 27, 2001, Dr. Pricco diagnosed left shoulder strain with tendinitis and left wrist carpal tunnel syndrome symptoms and further recommended work restrictions beginning December 13, 2001 including no repetitive use of hands or gripping. In the December 12, 2001 report, Dr. Pricco indicated that appellant was referred for electromyogram and nerve conduction studies due to carpal tunnel symptoms.

In an attending physician's report dated January 9, 2002, Dr. Pricco related the history of appellant's injury; that appellant developed left hand, arm and shoulder pain as a result of using her left hand to cut box tape with a pair of cutters at work on November 3, 2001. The physician again diagnosed left forearm and shoulder strains and left wrist carpal tunnel syndrome. Dr. Pricco further checked a box "yes" on the form report, which indicated that he believed the condition found was caused or aggravated by an employment activity.

A handwritten note dated January 11, 2002 provided that appellant apparently injured her left hand on November 3, 2001 from using pliers, which affected the use of her left hand and arm. The name of the attending physician is not included on the report and the signature is illegible.

In this case, the Board notes that the reports from Drs. Miller and Pricco are insufficient to establish the requisite causal relationship because the physicians failed to explain how the alleged job factor of cutting mail bundles with pliers at work caused left forearm and shoulder strain and left carpal tunnel syndrome on November 3, 2001. Dr. Miller in his November 7, 2001 report discussed appellant's symptoms of pain and tingling sensation in her left wrist radiating down to her left hand and involving her pinky and ring finger, and that her symptoms had been present for one to two weeks. However, the report also noted that the date of onset of her illness as having occurred only three days earlier on November 4, 2001. Dr. Pricco related the history of appellant's injury, his diagnosis of the condition and recommended work restrictions; however, he did not provide a specific opinion on causal relationship in his report. Dr. Pricco did check "yes" on a form report that he believed appellant's condition was caused by her employment; however, the Board notes that medical reports with a box checked "yes" with regard to whether a condition is employment related is of diminished probative value without further detail and explanation.⁷

Further, the Board notes that there is a handwritten note with an illegible signature, which indicated that appellant apparently injured her left hand on November 3, 2001 from using pliers, which affected the use of her left hand and arm. However, the physician did not provide any findings on examination or diagnosis, nor did he or she explain with medical reasoning how the injury was causally related to employment factors. Therefore, this report is insufficient to

⁷ *Lester Covington*, 47 ECAB 539, 542 (1996).

discharge appellant's burden of proof to establish that she sustained an employment-related injury on November 3, 2001.

Thus, the conclusions of the physicians noted of record are not supported with sufficient medical rationale and explanation to establish a causal relationship between the November 3, 2001 claimed injury and appellant's work. Accordingly, the Board finds that appellant has not met her burden of proof and the Office properly denied her claim.

The decision of the Office of Workers' Compensation Programs dated January 23, 2002 is affirmed.⁸

Dated, Washington, DC
December 12, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁸ The Board notes again that this case record contains evidence, which was submitted subsequent to the Office's January 23, 2002 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).