

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANN G. LEE and U.S. POSTAL SERVICE,
POST OFFICE, Nashville, TN

*Docket No. 01-1242; Submitted on the Record;
Issued January 24, 2002*

DECISION and ORDER

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

The issue is whether appellant sustained an injury while in the performance of duty.

On March 22, 2000 appellant, then a 58-year-old mail processor, filed a claim asserting that the pain in her right hand, fingers, wrist, elbow and shoulder was causally related to factors of her federal employment. She had previously worked as a data conversion operator. Appellant worked as a mail processor for approximately one week when she started experiencing problems.

Evidence initially received consisted of a claim form,¹ appellant's statements, the employing establishment's letter controverting the claim, a hospital report dated February 2, 2000 and a medical form dated February 21, 2000 which diagnosed overuse syndrome.

By letter dated May 23, 2000, the Office advised appellant of the type of factual and medical evidence needed to establish her claim and requested that she submit such evidence within 30 days. The Office noted that the medical evidence submitted was insufficient because it failed to link appellant's condition to her work factors and there was no diagnosis of her condition.

In May 3 and 31, 2000 statements and an undated note, appellant described her condition and how it related to her federal employment. She also submitted a June 13, 2000 safety survey, an accident report and a supervisor's statement.

In an August 10, 2000 decision, the Office denied appellant's claim on the grounds that the medical evidence did not establish that a condition was diagnosed in connection with her employment.

¹ Appellant filed both an occupational disease claim and a notice of traumatic injury claim.

By letter dated November 1, 2000, appellant requested reconsideration. Numerous documents were received, many of which were duplicative of evidence previously submitted. New documents included: a February 2, 2001 letter to appellant's congressman; an August 24, 2000 and a September 8, 2000 letter to the Office; an excerpt from the Tennessee District Newsbreak dated January 26, 2000; seven pages from the memorandum of understanding between the employing establishment and the American Postal Workers Union, AFL-CIO; a citation from the Employee Assistance Program; a March 27, 2000 memorandum from the employing establishment; and August 10 and 21, 2000 invoices for treatment of carpal tunnel.

In an October 2, 2000 letter, Dr. Trevor H. Paris, Board-certified in physical medicine and rehabilitation, advised that appellant "certainly appears to have symptoms compatible with carpal tunnel syndrome." He related that appellant started developing pain in the right wrist radiating up to the elbow and shoulder around the first of the year after her job changed from a data conversion operator to a mail processor. In that change of job duties, she was required to lift mail trays which weighed up to 40 pounds. Appellant had quite severe pain. She continued in the same job and then began having more difficulty with recurrence of severe pain in a similar distribution from the wrist, elbow and up to the shoulder.

Appellant was eventually placed on light duty and transferred back to a data conversion position with restricted lifting to 15 pounds. Since the change of position, her pain had subsided considerably. Dr. Paris noted that appellant was unable to tolerate an electromyogram (EMG) which was attempted in May. He provided the results of his physical examination and provided an assessment of persistent pain and paresthesias in the right upper extremity, certainly consistent with carpal tunnel syndrome.

An October 30, 2000 nerve conduction and EMG study concluded that appellant had carpal tunnel syndrome, moderately severe.

By decision dated March 27, 2001, the Office denied modification of its previous decision.

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury while in the performance of duty.

An employee seeking benefits under the Federal Employee's Compensation Act² has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of the Act and 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 or specific condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of each and every

² 5 U.S.C. §§ 8101-8193.

³ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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) 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 evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.⁵

In this case, the Office accepted that the claimed exposure occurred at the time, place and in the manner alleged. However, the medical evidence submitted in support of appellant's claim was insufficient to establish that her diagnosed conditions were causally related.

The medical form which diagnosed overuse syndrome is insufficient to meet appellant's burden of proof because a syndrome is not a diagnosis. Moreover, there is no medical rationale or explanation of how such a condition could be related to work factors, appellant had been in the new position fewer than two weeks.

The medical reports from Dr. Paris state that appellant appears to have symptoms compatible with carpal tunnel syndrome. This is not a diagnosis. Moreover, there is no opinion, supported by a valid diagnosis and medical rationale causally relating appellant's employment duties to her symptoms. Although the October 30, 2000 EMG revealed that appellant had carpal tunnel syndrome, there was no medical opinion, supported by medical rationale, linking the diagnosis to appellant's work duties.

Although the medical invoices of August 10 and 21, 2000 diagnose carpal tunnel syndrome, the physician fails to provide an opinion which would indicate that appellant's condition was work related.⁶

Additionally, appellant provided numerous factual documents to support her contention of a compensable work-related injury. Some of these documents are irrelevant to appellant's case. Furthermore, the Board has held that newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the necessary causal relationship between a claimed condition and employment factors because such materials are of general application

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Lourdes Harris*, 45 ECAB 545, 547 (1994); *Victor J. Woodhams*, *supra* note 4.

⁶ *Carolyn F. Allen*, 47 ECAB 240 (1995).

and are not determinative of whether the specifically claimed condition is related to the particular employment factors alleged by the employee.⁷

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 the condition was caused, precipitated or aggravated by her employment is sufficient to establish a causal relationship.⁸ Causal relationship must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office therefore properly denied appellant's claim for compensation.⁹

The March 27, 2001 and August 10, 2000 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
January 24, 2002

David S. Gerson
Member

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member

⁷ *Dominic E. Coppo*, 44 ECAB 484 (1993).

⁸ *Kathryn Haggerty*, 45 ECAB 383 (1994).

⁹ On appeal, appellant submitted new evidence. The Board cannot consider this evidence as the Board's review of the case is limited to the evidence of record, which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may resubmit this evidence and legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a). 20 C.F.R. § 10.606(b)(1999).