U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SILVIA BOLOGNA and U.S. POSTAL SERVICE,
POST OFFICE, Oakland, CA

Docket No. 01-186; Submitted on the Record;
Issued June 3, 2002

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish that she has any work-related condition of the left arm, other than carpal tunnel syndrome causally related to her accepted employment injury.

On May 7, 1990 appellant, then a 39-year-old mailhandler, filed a notice of occupational disease (Form CA-2), for carpal tunnel syndrome in both hands. The Office of Workers' Compensation Programs accepted the claim for bilateral carpal tunnel syndrome and later added bilateral wrist epicondylitis and major depressive disorder and paid appropriate benefits.[1]

In a November 11, 1996 report, Dr. Noah D. Weiss, an orthopedic hand surgeon and appellant's treating physician, noted findings on examination. He stated that appellant was tender on the right lateral epicondyle and there was some tenderness over the radial tunnel; however, it was difficult to distinguish between the epicondylitis and radial tunnel syndrome. Dr. Weiss stated that appellant's left hand continued to demonstrate positive Tinel's sign, Phalen's test and medial nerve compression test for carpal tunnel syndrome. He diagnosed chronic right elbow lateral epicondylitis and chronic left carpal tunnel syndrome.[2]

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[1] The record reflects that appellant underwent a right carpal tunnel release on May 6, 1991. Following the surgery, she was off work until July 15, 1991, when she returned to work. Appellant was again off work from July 24 to August 21, 1991. She was off work from June 2 to June 12, 1992. The record also reflects that appellant's two claims were subsequently doubled under 94510-13-920350 as the master. The record reflects that appellant filed a notice of recurrence on April 8 and July 29, 1991 and April 28, 1992. The record reflects that appellant underwent a fasciotomy and partial ostectomy of the right elbow lateral epicondyle on February 16, 1996 and did not return with the exception of two days in March 1998. The record also reflects that appellant had arthroscopic triangulfibrocartilage debridement, lunotriquetral arthrodesis with distal bone graft and ulnar nerve decompression. Appellant subsequently had a right wrist four-cornered limited arthrodesis with distal radius autogenurs bone graft. Additionally, appellant underwent a left endoscopic carpal tunnel release on August 19, 1997.

[2] The record contains many reports from Dr. Weiss as the treating physician with essentially the same diagnoses.

In an October 22, 1997 report, Dr. Weiss noted findings that included a positive response to her left elbow lateral epicondyle corticosteroid injection. He indicated that her lateral epicondyles were nontender. He stated that she was tender over the radial tunnels bilaterally, with the left greater than right.

In a March 11, 1998 report, Dr. Weiss diagnosed chronic left elbow lateral epicondylitis and left radial tunnel syndrome, probable TFC tear and possible lunotriquetral tear of the left wrist. He also diagnosed status post right elbow lateral epicondyle fasciotomy, TFC tear debridement and lunotriquetral fusion. The objective medical findings included a lack of five degrees of full elbow extension on the left side, significant tenderness over the left elbow lateral epicondyle and fairly exquisite tenderness over the TFC of the left wrist and over the lunotriquetral joint.[3]

In a May 16, 1998 report, Dr. Weiss provided a history of left elbow and forearm symptoms for the last eight months. He diagnosed lateral epicondylitis and radial tunnel syndrome of the left upper extremity. Dr. Weiss stated that appellant was treated successfully for a similar problem with the right upper extremity. He opined that appellant was suffering from a chronic condition and that in fact, very little use of the extremity was necessary to exacerbate her symptoms.

By letter dated May 19, 1998, the Office referred appellant for a second opinion examination with Dr. Edward Kelley, a Board-certified orthopedist.[4]

In a June 11, 1998 report, Dr. Kelley noted appellant's history of injury and treatment and the accompanying statement of accepted facts. He noted findings on examination and concluded that appellant was status post right carpal tunnel release for 1991, status post fasciotomy and partial ostectomy of the right elbow, 1996 and status post arthroscopic debridement, lunotriquetral arthrodesis and ulnar nerve decompression since 1996 and limited arthrodesis with bone graft, right wrist, 1997. He stated that appellant developed bilateral carpal tunnel syndrome and developed right lateral epicondylitis and instability of the right wrist, all of which were caused by her federal employment activities. Dr. Kelley opined that since appellant did not express symptoms of the left elbow or of instability in the left wrist prior to February 14, 1996 and since she could not have developed difficulty in these two areas by only working one and a half days on March 4, 1998, he did not believe that the present symptoms in her left elbow and wrist were industrially related. He further concluded that appellant could return to her former job without modification and that she had minimal objective findings to support her subjective complaints.

In an August 23, 1998 report, Dr. Weiss provided a supplemental report upon reviewing the medical records provided by the Office.[5] He stated that he had carefully reviewed his own

[3] His reports of December 17, 1997 and February 9, 1998 reported similar findings.

[4] The Office also referred appellant for a second opinion with a psychiatrist, however, as this condition was consequently accepted, it is not necessary to address the psychological issues.

[5] He noted Dr. Widroe's June 2, 1997 report, specifically his opinion that appellant's left arm and left wrist symptoms were not present prior to February 14, 1996 and that she could not have developed difficulty in these two

records and stated that he was of a similar opinion as Dr. Kelley,[6] as he did not believe that appellant's left elbow or wrist symptoms were industrially related.

By decision dated February 5, 1999, the Office found that the evidence of file failed to establish that appellant had an injury to her left upper extremity, other than carpal tunnel syndrome, that was causally related to her federal work activities or accepted work injury.

In a letter dated February 28, 1999, appellant requested an oral hearing.

In a March 18, 1999 report, Dr. Weiss noted that he had reviewed the second opinion report of Dr. Kelley of June 11, 1998 in detail. He stated that he was generally in complete agreement with his report. Dr. Weiss noted that one objective factor that was present on his physical examination that apparently was not present in Dr. Kelley's report, was tenderness over the left elbow lateral epicondyle and other than this, he was in complete agreement. He noted that appellant had several surgical procedures to her upper extremities and stated that she had no significant complaints related to any diagnosis that was treated surgically. Dr. Weiss indicated appellant's primary problem was that of her left elbow and arm complaints. He stated that he concurred that appellant's subjective complaints far exceeded her objective findings but noted that the subjective complaints of arm pain with activities involving gripping, squeezing, etc., were believable in his opinion.

Appellant was advised that a hearing would be held on August 4, 1999.

By decision dated September 30, 1999, an Office hearing representative found that the medical evidence of record failed to contain a rationalized medical opinion relating any left arm condition, other than carpal tunnel syndrome, to appellant's employment and affirmed the February 5, 1999 Office decision.

The Board finds that appellant has not met her burden of proof to establish that she has any work-related condition of the left arm, other than carpal tunnel syndrome causally related to her accepted employment injury.

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.[7] A person who claims benefits under the Federal Employees' Compensation Act[8] has the burden of establishing the essential elements of his or her claim.[9] Appellant must establish that she sustained an injury in the performance of duty and

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areas by working only one and one-half days on March 4, 1998 and he did not believe that the present symptoms in the left elbow and wrist were industrially related. However, the record reflects that this is a typographical error, as Dr. Widroe did not address this matter, Dr. Kelley addressed this matter in his June 11, 1998 report.

[6] The record actually states Dr. Widroe, but this appears to be a typographical error.

[7] *William Nimitz, Jr.*, 30 ECAB 567 (1979).

[8] 5 U.S.C. §§ 8101-8193.

[9] *Nathaniel Milton*, 37 ECAB 712 (1986).

that her disability resulted from such injury.[10] As part of this burden, a claimant must present rationalized medical opinion evidence based on a complete factual and medical background showing causal relationship.[11] 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,[12] must be one of reasonable medical certainty[13] 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.[14] The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.[15] Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.[16]

In the instant case, the record contains no rationalized medical opinion supporting a causal relationship between any work-related condition of the left arm, other than her accepted condition of carpal tunnel syndrome. Dr. Weiss noted that his left elbow lateral epicondyle required a corticosteroid injection and was tender over the radial tunnels bilaterally in 1997. He continued to treat appellant and diagnosed chronic left elbow lateral epicondylitis on March 11, 1998 and left radial tunnel syndrome along with a probable TFC tear and possible lunotriquetral tear of the left wrist. Additionally, he diagnosed status post right elbow lateral epicondyle fasciotomy, TFC tear debridement and lunotriquetral fusion. Dr. Weiss also found significant tenderness on the left elbow lateral epicondyle and left wrist; however, he did not indicate that this was related to her accepted employment injury. He repeated this finding in his May 16, 1998 report. Furthermore, Dr. Weiss' August 23, 1998 report, despite noting conditions on appellant's left arm previously,[17] concurred with Dr. Kelley by stating that he was of a similar opinion and did not believe that appellant's left elbow or wrist conditions were industrially related. His opinion is insufficient to meet appellant's burden as he opined that there was no causal connection. Appellant did not provide any medical report in which the physician provided an opinion, supported by medical rationale, that established a causal relationship between appellant's current condition and her employment-related injury. An award of

[10] *Daniel R. Hickman*, 34 ECAB 1220 (1983).

[11] *Mary J. Briggs*, 37 ECAB 578 (1986).

[12] *See supra* note 2.

[13] *See Morris Scanlon*, 11 ECAB 384 (1960).

[14] *Victor J. Woodhams*, 41 ECAB 345 (1989); *William E. Enright*, 31 ECAB 426 (1980).

[15] *Edward E. Olson*, 35 ECAB 1099 (1984).

[16] *Bruce E. Martin*, 35 ECAB 1090 (1984).

[17] The record does not contain any reports, where he stated that any condition, other than her carpal tunnel syndrome, was directly related to her work or caused by her employment.

compensation may not be based on surmise, conjecture or speculation, or upon appellant's belief that there is a causal relationship between her condition and her employment.

As appellant failed to provide rationalized medical opinion evidence establishing a causal relationship between her condition and the accepted employment injury, she did not meet her burden and the Office properly denied her claim for any work-related condition of the left arm, other than carpal tunnel syndrome causally related to her accepted employment injury.

The September 30, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
June 3, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member