

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SILVIA O. BENAVIDES and U.S. POSTAL SERVICE,
POST OFFICE, Anchorage, AK

*Docket No. 01-1979; Submitted on the Record;
Issued June 19, 2002*

DECISION and ORDER

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

The issue is whether appellant sustained an occupational disease in the course of her federal employment.

The Board finds that appellant has not met her burden of proof to establish that she sustained an occupational disease in the course of federal employment.

On December 12, 2000 appellant, then a 45-year-old office automation clerk, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that her federal employment caused her to sustain carpal tunnel syndrome and tendinitis.

Appellant worked for the employing establishment from July 5 to November 20, 2000. From May to August 2000 she also worked as a typist for a nonfederal employer. In October 2000 appellant reported a ten-year history of discomfort in her right hand and a two to three-year history of discomfort in her left hand.

In a November 7, 2000 report, Dr. J. Michael James diagnosed "bilateral carpal tunnel syndrome, severe on the right and moderate on the left." He also diagnosed chronic right C7 radiculopathy and wrote "the above constitutes a double crush syndrome."

In a November 15, 2000 progress note, Dr. Leslie Dean diagnosed bilateral carpal tunnel syndrome, right greater than left. Both medical reports were silent as to any causal relationship between appellant's medical condition and her federal employment.

In a January 29, 2001 letter, the Office of Workers' Compensation Programs informed appellant that the medical evidence in the record was insufficient to establish compensability and requested additional information.

No further information was submitted. In a February 22, 2001 decision, the Office denied the claim finding the medical evidence insufficient to establish a causal relationship between the diagnosed condition and the alleged employment factors.

Appellant requested reconsideration. In support of her request, appellant submitted a description of her duties as an automation clerk. She submitted a February 7, 2001 report from Dr. Dean. In her report Dr. Dean wrote:

“This is in response to your letter dated January 29, 2001 concerning [appellant].¹ A double crush injury specifically refers to the nerves being compressed at more than one location. [She] uses her hands to quite a significant extent as a [employing establishment] worker. It is known that the use of the hand and wrist can aggravate carpal tunnel symptomatology. However, it should be noted that whenever an individual uses their hands and wrist in any capacity, specifically to a significant extent, it can aggravate nerve compression complaints.”

Appellant also submitted progress notes from Dr. John Gerster. In his November 11, 2000 notes, he opined, “that appellant does indeed have severe bilateral carpal tunnel syndrome. She cannot really grasp or pick up things anymore and is actually scheduled for surgery the first week of December. [Appellant] is really not able to do her normal job at the [employing establishment], which is lifting boxes. She is using the wrist splints at night but they do not seem to do too much....”

In a March 12, 2001 decision, the Office denied modification of appellant’s request after a merit review.

The Board finds that appellant has not met her burden of proof to establish that she sustained an occupational disease in the course of federal employment.

An employee seeking benefits under the Federal Employees’ Compensation 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 the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

¹ The Board notes Dr. Dean refers to Silvia “Ochoa” while appellant’s last name is “Benavides.” The report read in context indicates this is clearly a typographical and a harmless error.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

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 medical evidence required to establish a causal relationship is rationalized medical opinion evidence. 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, must be one of reasonable medical certainty 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.⁵

The medical evidence appellant submitted is either speculative or silent on the issue of a causal relationship between appellant's medical condition and her duties as a federal employee. Neither Dr. James in his November 7, 2000 report, nor Dr. Dean in his November 15, 2000 progress notes mention a causal relationship between appellant's employment and her carpal tunnel. Dr. Gerster's November 11, 2000 notes refer to her employment with the employing establishment but does not indicate her employment duties caused her medical condition.

Dr. Dean's February 7, 2001 report is speculative. It indicates appellant's federal duties aggravate her carpal tunnel, but he goes on to write that any use of the hands and wrist it can aggravate nerve compression.

In addition, none of the medical evidence discusses the relationship between appellant's concurrent employment as a typist or her several-year medical history of discomfort in her hands. To meet her burden of proof appellant's medical evidence must discuss her medical and work history and show how appellant's federal employment aggravated or otherwise contributed to her existing medical condition.

⁵ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

The decisions of the Office of Workers' Compensation Programs dated March 12 and February 22, 2001 are affirmed.

Dated Washington DC

Dated, Washington, DC
June 19, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member