

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUDY WOOTEN and U.S. POSTAL SERVICE,
POST OFFICE, Jersey City, NJ

*Docket No. 02-65; Submitted on the Record;
Issued May 21, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
WILLIE T.C. THOMAS

The issue is whether appellant has met her burden of proof in establishing that she developed a hand condition in the performance of duty.

On January 22, 2000 appellant, then a 56-year-old mailhandler filed a claim alleging that her right hand condition was employment related. She stated that she first became aware of her hand condition on December 23, 1999. Appellant did not stop work.

In a letter dated March 13, 2000, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish her claim and requested that she submit such evidence.

In response to the Office's request appellant submitted notes from Dr. Gerardo Pis-Lopez, a Board-certified orthopedic surgeon, dated March 3, 2000. He indicated that appellant was being treated for carpal tunnel syndrome.

On April 27, 2000 the Office issued a decision and denied appellant's claim for compensation under the Federal Employees' Compensation Act.¹ The Office found that the evidence failed to establish that she sustained an injury within the performance of duty.

In a letter dated June 25, 2000, appellant requested reconsideration and submitted additional medical evidence from Dr. Pis-Lopez. In a report dated May 23, 2000, he noted initially treating appellant on March 3, 2000 for pain and numbness of the right hand due to repeated motion at work. Dr. Pis-Lopez noted upon physical examination good range of motion of the right hand; diminished sensation of the thumb, index, middle finger; and a positive Tinnel's sign. He diagnosed appellant with carpal tunnel syndrome. Dr. Pis-Lopez noted appellant was referred for eletromyogram (EMG) studies, which revealed carpal tunnel

¹ 5 U.S.C. §§ 8101-8193.

syndrome on the right. He diagnosed her with carpal tunnel syndrome as a result of repetitive motion at work and recommended surgery.

In a letter dated September 8, 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. The Office specifically requested a comprehensive medical report from appellant's treating physician regarding her condition.

By decision dated October 13, 2000, the Office denied modification of the prior decision. The Office found that the medical evidence was not sufficient to establish that her medical condition was caused by employment factors.

The Board finds that appellant has not met her burden of proof in establishing that she developed a hand condition in the performance of duty.

An employee seeking benefits under the Act 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 the 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.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

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) 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 causal relationship is generally 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.⁴

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Id.*

In the instant case, it is not disputed that appellant handled mail as part of her employment duties, however, she has not submitted sufficient medical evidence to support that a condition has been diagnosed in connection with the employment factor and that any alleged hand injury is causally related to the employment factors or conditions. In letters dated March 13 and September 8, 2000, the Office requested that appellant submit medical evidence in support of her claim. She did not submit any medical report from an attending physician addressing how specific employment factors may have caused or aggravated her hand condition. The only medical report submitted by appellant was a report from Dr. Pis-Lopez, dated May 23, 2000. He noted findings upon examination of diminished sensation of the thumb, index, middle finger; and a positive Tinnel's sign and noted that the EMG studies revealed carpal tunnel syndrome on the right. Dr. Pis-Lopez noted appellant had carpal tunnel syndrome as a result of repetitive motion at work. Although, his opinion somewhat supports causal relationship in a conclusory statement he provided no medical reasoning or rationale to support such statement. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.⁵

Additionally, in none of Dr. Pis-Lopez's notes or reports does he note the employment factors or activities believed to have caused or contributed to appellant's hand condition.⁶ For instance, Dr. Pis-Lopez did not identify any specific work activity, which caused appellant's condition, he merely noted that she performed repetitive motion at work. His reports do not include a rationalized opinion regarding the causal relationship between appellant's right hand condition and the factors of employment believed to have caused or contributed to such condition.⁷ Therefore, these reports are insufficient to meet appellant's burden of proof.

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 her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.⁸ Causal relationships 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.

⁵ See *Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

⁶ See *Cowan Mullins*, 8 ECAB 155, 158 (1955) (where the Board held that a medical opinion based on an incomplete history was insufficient to establish causal relationship).

⁷ See *Theron J. Barham*, *supra* note 5.

⁸ See *Victor J. Woodhams*, *supra* note 3.

The decision of the Office of Workers' Compensation Programs dated October 13, 2000 is affirmed.

Dated, Washington, DC
May 21, 2002

Alec J. Koromilas
Member

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member