

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DEBRA A. FINK and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Ogden, UT

*Docket No. 02-1640; Submitted on the Record;
Issued November 8, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

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

On May 1, 2001 appellant, then a 36-year-old tax examiner, filed a claim asserting that she developed right hand numbness and muscles spasms while typing.

On May 21, 2001 the Office of Workers' Compensation Programs requested that appellant submit additional information to support her claim, including a description of the employment-related activities that she believed contributed to her condition. The Office also requested that appellant submit a reasoned medical opinion from her physician on the cause of her diagnosed condition: "Specifically, if your doctor feels that exposure or incidents in your federal employment contributed to your condition, an explanation of how such exposure contributed should be provided."

Appellant submitted a description of work activities. She also submitted a March 16, 2001 report from Dr. Layne Barker, who assessed right hand numbness greater than left. Dr. Barker stated: "I doubt this is carpal tunnel syndrome at this point, as she does not have the typical and physical exam[ination] for this."

In a decision dated July 9, 2001, the Office denied appellant's claim on the grounds that the evidence failed to establish fact of injury. The Office found that the initial evidence of file supported that she actually experienced the claimed employment factor; however, the evidence failed to establish that a medical condition had been diagnosed in connection with this.

Appellant submitted additional medical evidence on the nature of her condition, but none of this evidence offered a medical opinion explaining how specific work activities caused or contributed to her diagnosed condition. On April 23, 2001 Dr. Kenneth W. Jee noted that appellant's left hand symptoms "are associated with bent-elbow activities and resting her elbow on hard objects as well as use at work on the keyboard." He also noted that appellant's right hand symptoms were also slightly worse during the day but that her paresthesias were primarily

present at night. Dr. Jee recommended the use of a track ball instead of her mouse at work, “which is aggravating her symptoms.”

Appellant requested a review of the written record by an Office hearing representative.

In a decision dated November 13, 2001, the hearing representative affirmed the Office’s July 9, 2001 decision rejecting her claim for compensation. The hearing representative found that none of the physicians in the case had provided “any opinion whatsoever that the claimant’s right hand condition is causally related to the physical activities she performed at work.” The hearing representative noted that appellant had failed to state how often she performed typing and writing at work, failed to describe her duties as a tax examiner beginning in July 2000, failed to describe whether she performed repetitive activities in the temporary jobs she held each year, and failed to state how often and how long she performed crochet and worked with needle and yarn on canvas.

The Board finds that the evidence in this case is insufficient to establish that appellant sustained an injury in the performance of duty as alleged.

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.²

Responding to the Office’s request for additional information to support her claim, appellant submitted a description of work activities that she believed contributed to her claimed condition. In its July 9, 2001 decision, the Office accepted that the evidence of record was sufficient to support that “she actually experienced the claimed employment factor.” To the extent that appellant described implicated employment factors, she has sufficiently established that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question for determination, therefore, is whether such event, incident or exposure caused an injury.

Causal relationship is a medical issue,³ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician’s rationalized opinion on whether there is a causal relationship between the claimant’s diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete

¹ 5 U.S.C. §§ 8101-8193.

² See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Mary J. Briggs*, 37 ECAB 578 (1986).

factual and medical background of the claimant,⁴ must be one of reasonable medical certainty,⁵ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁶

Appellant has submitted no such medical opinion. Dr. Jee's comments on April 23, 2001 merely reflect the history and complaints that appellant reported to him. They make no attempt to explain from a medical perspective how the work activities she described to the Office caused or contributed to her diagnosed condition. Because the record in this case contains no reasoned medical opinion supporting the critical issue of causal relationship, appellant has not met her burden of proof to establish the essential elements of her claim.

The November 13 and July 9, 2001 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
November 8, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁶ *See William E. Enright*, 31 ECAB 426, 430 (1980).