

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIE WADE and DEPARTMENT OF THE ARMY,
DIRECTORATE OF ENGINEERING & HOUSING, Fort Polk, LA

*Docket No. 03-425; Submitted on the Record;
Issued April 4, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issues are: (1) whether the Office of Workers' Compensation Programs properly determined that appellant's claim for compensation is barred by the applicable time limitation provisions of the Federal Employees' Compensation Act; and (2) whether appellant met his burden of proof to establish that he sustained employment-related bilateral carpal tunnel syndrome.

On March 20, 2002 appellant, then a 63-year-old retired plumber, filed an occupational injury claim alleging that he sustained bilateral carpal tunnel syndrome due to the repetitive hand and wrist motions required by his job. Appellant indicated that on November 29, 1997 he first became aware of his condition and that on October 5, 2000 he first realized it was caused or aggravated by his employment. Regarding the relationship of the condition to his employment, appellant stated, "I did not know what my problem was until I was diagnosed with carpal tunnel syndrome. Then I realized it could have been caused by repetitive hand motions [while] straining wrist with plumbing."¹

In additional statements, appellant described in detail his repetitive motion duties as a plumber. He stated that for seven hours per day he performed such activities as repairing pipes with pipe wrenches, cutting metal with hacksaws, breaking walls with hammers and using plungers to unstop drains. Appellant indicated that his problems started in 1989, when he had occasional pain in both arms, wrists and hands and that his symptoms gradually increased over the course of several years. He indicated that his symptoms increased somewhat in 1997, but that he had a major increase in symptoms in 2000. Appellant stated that he was diagnosed with bilateral carpal tunnel syndrome on October 5, 2000.² By decision dated July 22, 2002, the

¹ He further stated that the "[c]laim was filed within an appropriate time frame, but records [were] lost."

² It is unclear from the record when appellant last worked. The date of work stoppage is variously listed as 1990, 1993, or 1995.

Office denied appellant's claim on the grounds that it was barred by the applicable time limitation provisions of the Act.

The Board finds that the Office improperly determined that appellant's claim for compensation is barred by the applicable time limitation provisions of the Act.

Section 8122(a) of the Act states, "An original claim for compensation for disability or death must be filed within [three] years after the injury or death."³ Section 8122(b) provides that in latent disability cases, the time limitation does not begin to run until the claimant is aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship between his employment and the compensable disability.⁴ The Board has held that if an employee continues to be exposed to injurious working conditions after such awareness, the time limitation begins to run on the last date of this exposure.⁵

The record does not reveal that appellant was aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship between his employment and his claimed bilateral carpal tunnel syndrome more than three years before he filed his occupational injury claim on March 20, 2002. Appellant stated that on October 5, 2000 he first realized he had bilateral carpal tunnel syndrome, which was caused or aggravated by his employment.⁶ He indicated that he experienced pain symptoms while he was working in 1989, but suggested that these symptoms were minor at that time. Appellant later indicated that he experienced somewhat increased symptoms in 1997. Given that these increased symptoms apparently occurred after appellant stopped work and appellant considered them to be relatively minor, it would be reasonable that he would not relate his claimed upper extremity condition to his employment at that time. Appellant argued that he first associated his condition with his employment when he realized the seriousness of his condition after bilateral carpal tunnel syndrome was diagnosed in October 2000. The earliest medical evidence of record dates from October 2000⁷ and a review of the medical evidence does not show that appellant's condition was such that he was aware or should have been aware at an earlier date of a possible employment-related cause.

Therefore, the totality of the evidence shows that in October 2000 appellant first was aware of the relationship between his employment and his claimed condition. As appellant filed his claim on March 20, 2002, *i.e.*, a period within three years after October 2000, his claim was filed in a timely manner. Given that appellant filed a timely claim, it remains to be considered

³ 5 U.S.C. § 8122(a).

⁴ 5 U.S.C. § 8122(b).

⁵ *Charlene B. Fenton*, 36 ECAB 151, 157 (1984); *Gladys E. Olney*, 32 ECAB 1643, 1645 (1982).

⁶ In its July 22, 2002 decision, the Office improperly stated that appellant had identified November 29, 1997 as the date he realized his condition was caused or aggravated by his employment. On his occupational injury claim form, appellant identified November 29, 1997 as the date he first became aware of his condition.

⁷ In a statement, appellant indicated that he was advised in 1997 that he would need surgery at some later date. However, the medical evidence from October 2000, suggests that appellant's bilateral upper extremity condition had not been aggressively treated at any prior time. Appellant indicated that he filed a claim at an earlier time, but he did not indicate the date of such alleged filing.

whether appellant met his burden of proof to establish that he sustained employment-related bilateral carpal tunnel syndrome.

The Board further finds that appellant did not meet his burden of proof to establish that he sustained employment-related bilateral carpal tunnel syndrome.

An employee seeking benefits under the Act⁸ has the burden of establishing the essential elements of his 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.⁹ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.¹⁰

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.¹¹

In support of his claim that he sustained employment-related bilateral carpal tunnel syndrome, appellant submitted a May 9, 2002 report, in which Dr. Michael J. Oler, an attending Board-certified family practitioner, indicated that he had developed carpal tunnel syndrome. Dr. Oler generally stated that repetitive activities such as engaging in plumbing work could contribute to the development of carpal tunnel syndrome. He noted, however, that because he was a family practitioner he would defer an opinion on the cause of appellant’s condition to an appropriate specialist. Therefore, the submission of this report would not support appellant’s

⁸ 5 U.S.C. §§ 8101-8193.

⁹ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

¹⁰ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

¹¹ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

claim as it does not contain an opinion on causal relationship.¹² Appellant submitted other medical reports dated between 2000 and 2002, but none of these reports contains an opinion on the cause of his carpal tunnel syndrome.¹³ For these reasons, appellant did not meet his burden of proof to establish that he sustained employment-related bilateral carpal tunnel syndrome.

The July 22, 2002 decision of the Office of Workers' Compensation Programs is affirmed as modified to reflect that appellant filed a timely occupational injury claim but did not meet his burden of proof to establish that he sustained employment-related bilateral carpal tunnel syndrome.

Dated, Washington, DC
April 4, 2003

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

¹² See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

¹³ The Office provided appellant with an opportunity to provide further medical evidence in support of his claim.