

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of IRENE H. CRAIG and U.S. POSTAL SERVICE,
POST OFFICE, Detroit, MI

*Docket No. 03-1269; Submitted on the Record;
Issued August 19, 2003*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has any continuing disability causally related to her accepted employment injury.

On March 31, 1988 appellant, a 39-year-old distribution clerk, filed a notice of occupational disease alleging that she developed bilateral ganglion cysts in the course of her federal employment. The Office of Workers' Compensation Programs accepted her claim for a ganglion cyst and wrist pain on March 28, 1989. The Office also accepted several claims for recurrence of disability.

On August 11, 1994 appellant filed a second notice of occupational disease alleging that she developed carpal tunnel syndrome due to her employment duties. The Office accepted her claim for aggravation of left carpal tunnel syndrome on February 21, 1995.

The Office referred appellant for a second opinion evaluation with Dr. Kim K. Lie, a Board-certified surgeon, on April 16, 1998. He completed reports on May 11, October 27 and November 13, 1998 and concluded that appellant no longer had symptoms of her accepted employment injuries. The Office proposed to terminate appellant's compensation benefits based on Dr. Lie's reports on December 3, 1998. Appellant did not respond to the proposed termination and the Office finalized its decision on January 11, 1999.

Appellant requested reconsideration on July 13, 1999 and submitted additional medical evidence from her attending physician, Dr. Haydon Moorman, a Board-certified internist and rheumatologist. In a letter dated July 30, 1999, the Office found that there was a conflict of medical opinion between Drs. Moorman and Lie and referred appellant for an impartial medical examination with Dr. John Corbett, a Board-certified orthopedic surgeon, on November 2, 1999.

Dr. Corbett concluded that appellant had no residuals of her accepted employment injuries and by decision dated January 10, 2000, the Office denied modification of its January 1, 1999 decision. Appellant requested reconsideration on January 11, 2000 and

submitted additional medical evidence. The Office again declined to modify its January 1, 1999 decision on June 9, 2000. Appellant, through her attorney, requested reconsideration on July 7, 2001 and the Office denied modification of its January 1, 1999 decision on January 11, 2002.

The Board finds that appellant has not established continuing disability or residuals as a result of her accepted employment injuries.

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.¹ After it has determined that an employee has a disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.² Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.³ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which would require further medical treatment.⁴

In this case, the Office terminated appellant's compensation and medical benefits based on the reports of Dr. Lie, a Board-certified surgeon. He examined appellant on May 11, 1998, providing a history of injury and results of physical examination. Dr. Lie stated that appellant had multiple complaints of soreness and tenderness on light touch and pressure over the fingers and palm of both hands. Appellant demonstrated a positive Tinel's test and positive Phalen's sign on both hands. Dr. Lie stated that he was unable to make any objective findings to substantiate appellant's multiple complaints and recommended an electromyogram (EMG). Appellant's test results were normal. On October 27, 1998 Dr. Lie stated that appellant's negative findings excluded the presence of carpal tunnel syndrome of both wrists and hands. In his final report dated November 13, 1998, Dr. Lie concluded that there was no evidence of carpal tunnel syndrome. He concluded that appellant should be able to resume her previous work as a mail clerk.

As there was no contemporaneous medical evidence supporting appellant's claim for continuing disability and medical residuals, the Board finds that the Office properly relied on Dr. Lie's detailed and well-reasoned reports to conclude that appellant had no continuing disability nor, medical residuals as a result of her accepted employment injuries and that the Office met its burden of proof to terminate appellant's compensation benefits.

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to appellant to establish that she had disability causally related to her accepted employment injury.⁵ To establish a causal relationship between the condition, as well as any

¹ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

² *Id.*

³ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

⁴ *Id.*

⁵ *George Servetas*, 43 ECAB 424, 430 (1992).

disability claimed and the employment injury, the employee must submit rationalized medical opinion evidence, based on a complete factual background, supporting such a causal relationship. 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁶

Appellant submitted a report dated June 28, 1999 from her attending physician, Dr. Moorman, a Board-certified internist and rheumatologist, who reviewed Dr. Lie's reports and concluded that the EMG was not a reliable indicator of carpal tunnel syndrome. Dr. Moorman stated that appellant had consistently reported symptoms of carpal tunnel syndrome. He stated that appellant had bilateral carpal tunnel syndrome that was continuously active without interruption and that this condition was caused and certainly aggravated by her employment duties.

The Office properly found that there was a conflict of medical opinion evidence between the second opinion physician, Dr. Lie, a Board-certified surgeon, who found that appellant's diagnostic test was sufficient to dismiss and diagnosis of carpal tunnel syndrome and her attending physician, Dr. Moorman, a Board-certified internist and rheumatologist, who concluded that based on his physical examination appellant continued to demonstrate an active carpal tunnel syndrome. Section 8123(a) of the Federal Employees' Compensation Act,⁷ provides, "[i]f there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination." The Office referred appellant to Dr. John Corbett, a Board-certified orthopedic surgeon, to resolve the existing conflict of medical opinion.

In a report dated November 23, 1999, Dr. Corbett reviewed appellant's history of injury, and performed a physical examination. He found that appellant had normal range of motion of her wrists and that appellant complained of pain with passive flexion and extension. Dr. Corbett stated that appellant had poorly localized tenderness over both wrists with strange sensation. He stated that appellant's pattern of numbness did not fit with any physical abnormality of which he was aware. Dr. Corbett diagnosed possible tendinitis of the wrists and hands with no objective evidence of abnormality and findings suggestive of pain magnification. He concluded:

"My examination revealed normal movements of the fingers, wrists and elbows with slight limitation of shoulder movement. [Appellant] had inconsistent findings on testing for sensation. Phalen's test was inaccurate. She complained of severe pain with flexion and extension of both wrists and severe tenderness all

⁶ *James Mack*, 43 ECAB 321 (1991).

⁷ 5 U.S.C. §§ 8101-8193, 8123(a).

over the wrists. [Appellant] complained of numbness in the dorsum and on the front of all the fingers. These findings are not consistent with any physical abnormality and has to do with a very large part of it related to exaggeration or magnification of pain.”

Dr. Corbett stated that due to the lack of positive physical findings it was difficult for him to say that appellant was disabled. He limited appellant’s lifting due to her subjective complaints, but otherwise felt that appellant could return to her date-of-injury position.

In situations where there are opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such a specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.⁸ The Board finds that Dr. Corbett’s report is sufficient to resolve the existing conflict of medical opinion evidence. He provided a history of injury as well as detailed physical findings. Dr. Corbett concluded that appellant was magnifying her pain symptoms and that based on her objective findings she could return to her date-of-injury position without restrictions.

Appellant submitted two reports from Dr. Jerry A. Taylor, an osteopath. In his February 9, 2000 report, Dr. Taylor noted appellant’s history of injury and performed a physical examination. He found a full range of motion in appellant’s wrists, with no muscle atrophy or motor weakness of the median or ulnar nerve distribution in either hand. Dr. Taylor found that appellant had positive Phalen’s and Tinel’s tests bilaterally with moderate soft tissue swelling of all digits in both hands. He diagnosed bilateral carpal tunnel syndrome, medial and lateral humeral epicondylitis bilaterally, tenosynovitis of the flexor tendons of the thumb, index, middle, ring and little fingers bilaterally as well as capsulitis or early degenerative osteoarthritis of the first metacarpal joint bilaterally. Dr. Taylor opined that these conditions were due to appellant’s employment activities. This report is insufficient to meet appellant’s burden of proof as Dr. Taylor did not provide medical reasoning explaining why and how he believed appellant’s light-duty employment activities resulted in her current condition. He also failed to address the findings on diagnostic testing. Therefore, this report is insufficient to overcome the special weight accorded the report of Dr. Corbett, nor to create a conflict with that report.

On May 17, 2001 Dr. Taylor again noted appellant’s history of injury and physical findings. He concluded that appellant’s diagnosed conditions were due to her employment activities as she had not experienced symptoms prior to her employment duties of grasping, lifting, twisting, pushing and pulling. However, the Board has held that the mere manifestation of a condition during a period of employment does not raise an inference that there is a causal relationship between the condition and the employment. Neither the fact that the condition became apparent during a period of employment nor the belief that the employment caused or aggravated a condition is sufficient to establish causal relationship.⁹ The Board finds that this report lacks sufficient medical reasoning to meet appellant’s burden of proof or to create a conflict with the well-reasoned report of Dr. Corbett.

⁸ *Nathan L. Harrell*, 41 ECAB 401, 407 (1990).

⁹ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

Dr. Kasturi Puri, a physician, Board-certified physical medicine and rehabilitation, completed a report on May 31, 2001 noting appellant's employment duties and history of injury. He found a normal range of motion with no complaints of pain. Dr. Puri stated that appellant's hands were swollen and tender and that she demonstrated positive Phalen's and Tinel's signs. He diagnosed tendinitis in the abductor and extensor tendons of the first carpal-metacarpal joint with painful repetitive use of the hands, opined that appellant was partially disabled and stated that this condition was due to her employment due to "opponence and gripping activities in both hands." Dr. Puri also opined that appellant was developing arthritis. This report is insufficient to meet appellant's burden of proof, as Dr. Puri did not explain how and why appellant's employment activities would result in the diagnosed conditions. Without medical reasoning explaining the processes by which appellant's employment duties could cause or aggravate her diagnosed condition of tendinitis, Dr. Puri's report is insufficient to establish appellant's claim or to create a conflict with the well-reasoned opinion of Dr. Corbett.

Appellant has not provided the necessary rationalized medical opinion to establish that she has a continuing condition or disability causally related to her employment. As she has not submitted such evidence appellant has failed to meet her burden of proof and the Office properly denied her claim for continuing disability and medical residuals.

The January 11, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
August 19, 2003

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member