

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CEDRIC C. JONES and U.S. POSTAL SERVICE,
POST OFFICE, St. Louis, MO

*Docket No. 01-2124; Submitted on the Record;
Issued February 19, 2002*

DECISION and ORDER

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

The issue is whether appellant has met his burden of establishing that he had intermittent periods of disability between January 13, 1999 through January 10, 2000 due to his employment-related carpal tunnel syndrome.

On July 31, 2000 appellant, then a 32-year-old mail processor, filed a claim for carpal tunnel syndrome of the right hand. He noted that his duties consisted of loading mail trays on to a machine for processing and unloading mail to be dispatched. Appellant related that he had previously been diagnosed with bilateral carpal tunnel syndrome and had undergone surgery on both hands in 1998. He indicated that, after he returned to work, his symptoms were aggravated by the repetitive nature of his job. The Office of Workers' Compensation Programs accepted appellant's claim for carpal tunnel syndrome and began payment of temporary total disability compensation, effective February 1, 2000.

On December 5, 2000 appellant filed a claim for leave buy back and intermittent periods of disability from January 4, 1999 to January 10, 2000. In supplemental documents, he indicated that he used leave or was on leave without pay for the periods January 4 through 12, 1999, September 1 through October 2, 1999, October 25 through 27, 1999, November 2 through 29 and December 27, 1999 through January 10, 2000.

In a January 24, 2001 decision, the Office denied appellant's claim for intermittent periods of disability on the grounds that the medical evidence of record failed to demonstrate that appellant was totally disabled from work during the claimed period. In a February 13, 2001 letter, appellant requested reconsideration. In a May 7, 2001 decision, the Office noted that appellant's initial claim under another claim number had been denied effective June 17, 1999 and noted that all dates of disability claimed prior to that date should have been considered under that claim. The Office considered appellant's claims for dates after June 17, 1999 under his claim for recurrent right carpal tunnel syndrome, which had been accepted. The Office authorized leave buy back for the period January 4 through 12, 1999. The Office also authorized compensation for the dates appellant was examined by a physician for his condition, which were

August 11 and 26, September 13 and 27, October 4 and 25, November 3, 15 and 29, December 16, 1999 and January 6, 2000. The Office denied appellant's claim for all other dates.

The Board finds that appellant had not met his burden of proof in establishing that his intermittent periods of disability were causally related to his accepted right carpal tunnel syndrome.

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;¹ (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;² 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.³ The medical evidence required to establish causal relationship, generally, 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,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 specific employment factors identified by the claimant.⁶

Appellant submitted in support of his claim several disability notes from Dr. Kosit Prieb, a Board-certified surgeon. In a January 12, 1999 note, Dr. Prieb stated that appellant was incapacitated from January 4 to 11, 1999 and was able to return to work on January 12, 1999 with restrictions. In an October 4, 1999 note, he stated that appellant had been under his care since August 31, 1999 and was able to return to work on October 4, 1999. In an October 28, 1999 note, Dr. Prieb indicated that appellant had been under his care since September 2, 1999 and was able to return to work on October 28, 1999. He stated that appellant was unable to work October 25 to 27, 1999 due to pain in his hand. In a November 29, 1999 note, Dr. Prieb reported that appellant was able to return to work on November 29, 1999 and had been unable to work November 2 to 28, 1999 due to pain. In a January 6, 2000 note, he stated that appellant was able to return to work on January 10, 2000 and had been unable to work from December 27, 1999 to January 20, 2000 due to pain. In these report, Dr. Prieb did not give a diagnosis of appellant's

¹ See *Ronald K. White*, 37 ECAB 176, 178 (1985).

² See *Walter D. Morehead*, 31 ECAB 188, 194 (1979).

³ See generally *Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

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).

condition, did not describe how that condition was causally related to appellant's employment and did not indicate how the employment-related condition caused appellant's disability for the dates in question. This series of reports, therefore have diminished probative value and are insufficient to establish that appellant was disabled during the periods at issue.

In a January 11, 2001 report, Dr. Prieb stated that he had been treating appellant since his injury on January 1, 1999. He stated that on January 12, October 4 and 28, November 29, 1999, January 6, December 18 and 28, 2000 appellant was unable to perform his job-related duties due to pain, numbness or tingling in his hands due to his continued difficulties with recurrent carpal tunnel syndrome. Dr. Prieb indicated that the condition caused appellant to be incapacitated involving the use of his hands. He recommended that appellant change jobs to prevent further complications. Dr. Prieb submitted office notes from examinations performed on October 4 and 28, November 29, 1999 and January 6, 2000. In the notes, appellant reported pain and numbness in his hands. Dr. Prieb noted that the Tinel's test was negative in all examinations and the Phalen's test was negative on October 4 and 28, 1999 but positive bilaterally on November 29, 1999 and January 6, 2000.

The January 11, 2001 report of Dr. Prieb and the office notes provided sufficient evidence to indicate that appellant was disabled on the dates he was examined by Dr. Prieb. However, these reports do not provide any support for appellant's claim for the other periods of leave without pay or leave used between August 11, 1999 and January 10, 2000. Dr. Prieb specified only a few dates on which appellant was disabled due to his accepted carpal tunnel syndrome. He did not indicate any other dates on which appellant was disabled due to accepted condition. Appellant, therefore, has not submitted sufficient probative, rationalized medical evidence in support of his claim for compensation for the periods of intermittent disability between August 31, 1999 and January 10, 2000 other than those dates accepted by the Office.

The decision of the Office of Workers' Compensation Programs dated May 7, 2001 is hereby affirmed.

Dated, Washington, DC
February 19, 2002

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member