

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LILIBETH B. DeGUZMAN and U.S. POSTAL SERVICE,
POST OFFICE, San Bernardino, CA

*Docket No. 03-1639; Submitted on the Record;
Issued November 20, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has established that she was disabled from work for the period September 4, 2002 through January 6, 2003, causally related to her accepted employment-related conditions of bilateral carpal tunnel syndrome and bilateral wrist strain.

On September 10, 2002 appellant, then a 42-year-old data conversion operator, filed an occupational disease claim alleging that she developed pain, numbness and tingling sensations in both arms that radiated to her fingers and up her arm to her neck. She indicated that she worked as a data conversion operator keying 10,000 keystrokes an hour 5 days a week. Appellant claimed that her arms had been hurting for a couple of years, especially after work, so she knew that it was related to her work. In an accompanying letter, appellant claimed that her pain was not resolved by pain medication and that, on August 30, 2002 she could not function properly because of shooting pain and numbness from her hands through her elbow and neck. Appellant's supervisor told her to see her treating physician.

Attached was a partially completed Form CA-17, dated September 10, 2002 and signed by Dr. Jose M. Limon, an internist, which listed some work restrictions on the left side only, noted as findings "both hand pain [and] numbness" and noted that "[appellant] may have bilateral carpal to be proved by EMG [electromyogram]....."¹

By letter dated October 8, 2002, the Office of Workers' Compensation Programs advised appellant that her claim had been accepted for bilateral wrist sprain.

On October 9, 2002 appellant underwent an electrodiagnostic examination, including a nerve conduction study (NCV) and an EMG, which was reported as normal and without electrodiagnostic evidence of carpal tunnel syndrome, plexopathy or cervical radiculopathy.

¹ The fully completed September 10, 2002 Form CA-17 was later submitted to the record and checked "[n]o" to the question of whether appellant had been advised to resume work and "[n]o" to the question of whether appellant was able to perform regular work duties.

On November 18, 2002 the Office advised appellant that the evidentiary record did not contain medical evidence sufficient to establish disability for the period September 4 to October 28, 2002 as reflected by the Form CA-7, causally related to her bilateral wrist sprains. The Office allotted appellant 30 days to, *inter alia*, submit a medical narrative supportive of her claim.

In response to the Office's November 18, 2002 letter, appellant submitted a November 12, 2002 report from Dr. Harkeerat S. Dhillon, a Board-certified orthopedic surgeon, which noted that appellant had been off work since September 4, 2002 and had pain, numbness and tingling in both hands, left greater than right. He noted that appellant had been doing data entry for seven years and had been off work and treated since September 4, 2002 with wrist braces and he reported his physical examination results. Dr. Dhillon noted that appellant's Phalen's test and forearm compression test were positive bilaterally and her abductor pollicis brevis was diminished in strength bilaterally, 3/5. He opined that appellant's symptoms were very classic of carpal tunnel [syndrome] and that examination reproduced her symptoms, which, with the loss of power of the abductor pollicis brevis, showed clinically that the median nerve was being compressed. Dr. Dhillon recommended that, despite the normal EMG study, appellant undergo a left carpal tunnel release. He completed a disability certificate indicating that appellant was physically unable to perform her job duties for the period October 30 until November 27, 2002.

On December 2, 2002 the Office authorized a left carpal tunnel release.

On November 25, 2002 Dr. Dhillon completed an attending physician's report, Form CA-20, noting that appellant had pain, loss of sensation bilaterally in her hands and wrists and that her diagnosis was carpal tunnel syndrome. He checked "yes" to the question of whether he believed the condition found was caused or aggravated by an employment activity and indicated that it was due to repetitive motion. Dr. Dhillon noted that appellant was disabled for the period October 30 through November 27, 2002 and that the date she would be able to return to work was "not yet determined."

On January 7, 2003 appellant underwent carpal tunnel release surgery.

Thereafter the Office expanded appellant's claim to accept bilateral carpal tunnel syndrome, for which she underwent surgery on January 7, 2003.

A field nurse was assigned to appellant's case and noted as history that appellant's hands began to bother her in the year 2000, with pain, numbness and tingling in both hands, especially at night and that, on August 30, 2002 appellant could not move the third, fourth and fifth fingers of her left hand.

In a follow-up attending physician's report received by the Office on February 24, 2003, Dr. Dhillon repeated his findings from his November 25, 2002 report and noted that appellant was totally disabled from November 25, 2002 through March 5, 2003 from carpal tunnel syndrome due to repetitive motion at work.

Appellant also submitted an undated attending physician's report received by the Office on February 24, 2003, Form CA-20, from Dr. Limon, which noted the date of the first

examination as September 4, 2002, noted as history “bilateral hand numbness” and findings as “possible carpal tunnel.” Dr. Limon checked “yes” to the question of whether the condition found was caused or aggravated by employment activity and he indicated “repetitive motion.” He noted the date of the first examination as September 4, 2002 and that appellant was disabled for the period September 4 through October 29, 2002. Under remarks Dr. Limon noted that appellant was “still disabled.”

By decision dated March 4, 2003, the Office denied appellant’s claim for compensation for the period September 4 through October 28, 2002, finding that the only medical evidence which addressed her work status during that period did not contain objective medical evidence to support disability during that period and did not contain a rationalized medical opinion as to appellant’s work status during that period.

By letter dated March 12, 2003, appellant requested reconsideration of the March 4, 2003 decision and attached several reports and disability certificates regarding the claimed period of preoperative disability. She submitted the fully completed copy of the Form CA-17, dated September 10, 2002 from Dr. Limon on which he checked “[n]o” to the question of whether appellant had been advised to resume work and “[n]o” to the question of whether she was able to perform regular work duties. The form report noted that appellant could not perform simple grasping, fine manipulation including keyboarding and reaching above her shoulder and that she could not operate machinery.

Also attached was a September 10, 2002 form report from Dr. Limon, which noted that date as the date appellant’s condition commenced and noted that she “can [not] type.” Additionally submitted were multiple disability certificates from Dr. Limon and Dr. Dhillon regarding appellant’s treatment and disability during the period September 4 to December 16, 2002 due to carpal tunnel syndrome and chronic wrist tendinitis.

On March 14, 2003 Dr. Dhillon completed another Form CA-20, attending physician’s report noting appellant’s history of injury as “bilateral hand pain [with] numbness/tingling,” noted findings as “pain, numbness in fingers, stiffness b[ilateral] hands, l[eft] thumb is painful, r[ange] o[f] m[otion] has increased and diagnosing carpal tunnel syndrome. He checked “yes” indicating that he believed the condition was caused or aggravated by employment and noted “due to repetitive motion.” Dr. Dhillon noted the date of the first examination as October 30, 2002 and noted appellant’s period of disability as being from October 30, 2002 to March 20, 2003. On March 26, 2003 he noted that appellant’s left hand was “[i]nsufficiently healed to work light hours.”

By letter dated April 7, 2003, the Office advised appellant that none of the reports or forms submitted contained any objective medical evidence of disability for the period October 9, 2002 through January 6, 2003 or a rationalized medical opinion as to her work status during that period. The Office allotted appellant 30 days within which to submit additional evidence to support the claim. The Office advised appellant to exercise her appeal rights for the March 4, 2003 denial of compensation for the period September 4 through October 28, 2002.

On April 24, 2003 appellant underwent a right carpal tunnel release.

By report dated May 2, 2003, Dr. Dhillon noted that he first saw appellant on October 30, 2002, but also noted that she had previously been seen by another physician and was put off work since September 4, 2002 for her complaints. He stated:

“You mentioned that there is no objective evidence. I have very clearly stated that the power of the abductor pollices brevis was 3/5 bilaterally and as you know the normal power is 5/5. The 3/5 power is significantly reduced power and it is an objective assessment.... Phalen’s test and forearm compression test bilaterally was positive, this is again an objective sign of carpal tunnel syndrome.

“It has also been clearly mentioned that, in spite of [the] EMG being normal, clinically this is significant carpal tunnel syndrome and that is why the surgery was recommended; the fact that [appellant] has been off was continued to stay off as surgery was scheduled and carried out.”

* * *

“Once [appellant] has been seen and documented with a power loss of her hand muscles, it certainly is a rationalized medical opinion that she does have objective signs of a peripheral nerve compression problem.”

Dr. Dhillon noted that appellant’s objective symptoms of a positive Phalen’s test and a positive nerve compression test, as well as a significant loss of power, continued up until surgery.

By decision dated May 16, 2003, the Office denied appellant’s claim for compensation for the period October 29, 2002 through January 6, 2003, finding that none of the documents submitted contained any objective medical evidence to support disability during this time.

The Board finds that appellant has not established that she was disabled from work for the period September 4, 2002 through January 6, 2003, causally related to her bilateral carpal tunnel syndrome and bilateral wrist strain.

Appellant has the burden of proving by the preponderance of the reliable, probative and substantial evidence that he or she is disabled for work as a result of an employment injury or condition.² This burden includes the necessity of submitting rationalized medical opinion evidence, based on a proper factual and medical background, establishing such disability and its relationship to employment.³ The mere fact that a disease or condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease or condition became apparent during a period of employment, nor the belief of appellant that the disease or condition was caused or aggravated by employment conditions, is sufficient to establish causal relation.

² *Laurie S. Swanson*, 53 ECAB __ (Docket Nos. 01-1406 & 02-765, issued May 2, 2002); *David H. Goss*, 32 ECAB 24 (1980).

³ *David H. Goss*, *supra* note 2.

In this case, none of the medical evidence submitted by appellant is sufficiently rationalized to establish her claimed period of disability.

Appellant initially submitted a partially completed Form CA-17 dated September 10, 2002 and signed by Dr. Limon, an internist, who noted subjective findings only, listed some work restrictions for the left side only and noted that appellant “may have bilateral carpal tunnel to be proved by EMG.” The Board notes that Dr. Limon discusses only subjective findings and restrictions for the left side and that he speculates as to what may be proved by EMG. The Board has frequently explained that, generally, objective findings upon examination are necessary to support a physician’s opinion on causal relation and period of disability.⁴ In this report the Board notes that no such objective findings were included. Further, medical opinions which are speculative or equivocal have little probative value.⁵ As Dr. Limon’s September 10, 2002 Form CA-17, lacks objective findings and is couched in speculative terms, it is of diminished probative value and is insufficient to establish appellant’s claim.⁶

An October 9, 2002 electrodiagnostic report was negative for evidence of carpal tunnel syndrome, plexopathy or cervical radiculopathy. This negative objective testing results does not support appellant’s claim.

Appellant thereafter submitted a November 12, 2002 report from Dr. Dhillon, who noted appellant’s history of data entry for seven years and complaints of subjective symptoms and indicated that her Phalen’s test and forearm compression test were positive bilaterally and her abductor pollices brevis was diminished in strength bilaterally. He opined that appellant’s symptoms were very classic of carpal tunnel syndrome and that examination reproduced her symptoms, which, with the loss of power of the abductor polices brevis, showed clinically that the medical nerve was being compressed. Dr. Dhillon recommended that, despite appellant’s normal EMG study, she undergo a left carpal tunnel release and he indicated that appellant was physically unable to perform her job duties for the period October 30 until November 27, 2002. Dr. Dhillon, however, did not provide a rationalized medical opinion explaining the relationship between this positive clinical finding of medial nerve compression on the left and specific factors of appellant’s employment. Therefore, this report is insufficient to establish appellant’s disability claim. A follow-up report had the same deficiencies and was, likewise, insufficient to establish appellant’s claim

In a November 25, 2002 attending physician’s report, Dr. Dhillon noted appellant’s subjective symptoms, diagnosed carpal tunnel syndrome and checked “yes” to the question of whether appellant’s condition was caused or aggravated by an employment activity and indicated that it was due to repetitive motion. He also reiterated that appellant was disabled from October 30 through November 27, 2002. However, no specific objective findings were identified to establish the diagnosis and no discussion on causal relation was provided. The

⁴ See *Barry C. Petterson*, 52 ECAB 120 (2000).

⁵ See *Frank Luis Rembisz*, 52 ECAB 147 (2000).

⁶ A fully completed September 10, 2002 Form CA-17 was later submitted which continued to have the deficits noted in the original as was, therefore, insufficient to establish appellant’s claim.

Board has held that a physician's opinion on causal relation that consists only of checking "yes" to a form question, without further elaboration, has little probative value and is insufficient to establish causal relationship.⁷ In this case, Dr. Dhillon's notation to the question on causal relation, to which he checked "yes," that the condition was due to repetitive motion, is not adequate to establish appellant's disability claim. Therefore, Dr. Dhillon's February 24, 2003 subsequent attending physician's report is of reduced probative value and is insufficient to establish appellant's disability claim.

Appellant submitted a field nurse's report discussing the onset of appellant's symptoms and her disability. The Board has held that a nurse is not a physician under the Federal Employees' Compensation Act and thus, cannot render a medical opinion on the causal relationship between a given physical condition and implicated factors.⁸ Therefore, the field nurse's report has no probative value in this case.

An undated report received from Dr. Limon on February 24, 2003 noted appellant's subjective symptoms, found "possible carpal tunnel" syndrome and checked "yes" to the form question of whether the condition found was caused or aggravated by an employment factor, noting only "repetitive motion" as his comments. This form report has several of the deficiencies as earlier reports of record in that it's finding was couched in speculative terms, which diminished its probative value and because Dr. Limon checked "yes" to a form question without providing details or explaining the causal relationship with specific employment factors, noting only "repetitive motion" as his remarks, which further diminished its probative value. Therefore, this report is insufficient to establish appellant's period of claimed disability.

Following the Office's March 4, 2003 decision, appellant submitted a reconsideration request accompanied by a Form CA-17, which only contained two answers checked "no" regarding appellant's ability to return to work, without further explanation. The form merely reported appellant's work restrictions and did not discuss causal relation of her condition with specific factors of her employment. Therefore, this report has little probative value.

Appellant submitted multiple disability certificates and reports from both Drs. Limon and Dhillon, none of which discussed causal relation with specific employment factors. Therefore, none of these certificates has significant probative value in proving the question at hand.

On March 14, 2003 Dr. Dhillon provided another Form CA-20, attending physician's report, on which he discussed appellant's symptoms prior to surgery and on which he marked "yes" to the question on causal relation without providing an explanation of the relationship, noting only "due to repetitive motion" as his rationale. Dr. Dhillon did not identify what repetitive motion, when and for how long or identify which hand he was addressing, which reduces the probative value of this report and renders the identified periods of disability of little probative value and insufficient to establish appellant's disability claim.

⁷ *Ruth S. Johnson*, 46 ECAB 237 (1994).

⁸ *Vicky L. Hannis*, 48 ECAB 538 (1997).

In a May 2, 2003 report, Dr. Dhillon insisted that had he identified objective evidence of appellant's condition and disability from October 30, 2002, noting his positive Phalen's testing results, positive forearm compression and power loss in her hand muscles as signs of peripheral nerve compression. He did not, however, provide a concomitant explanation of causal relation between appellant's clinical findings and specific factors of her employment. Therefore, this report, as his earlier reports, was deficient and, therefore, of reduced probative value, rendering it insufficient to establish appellant's period of disability.

As none of the reports submitted by appellant or her physicians identified objective evidence of her conditions and provided a rationalized discussion of causal relationship between the objective findings and specific factors of her employment, none of the evidence submitted is sufficient to establish appellant's period of disability preceding her carpal tunnel release surgeries.

The decisions of the Office of Workers' Compensation Programs dated March 4 and May 16, 2003 are hereby affirmed.

Dated, Washington, DC
November 20, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member