

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH MICHELSON and U.S. POSTAL SERVICE,
REMOTE ENCODING CENTER, Princeton, NJ

*Docket No. 03-1595; Submitted on the Record;
Issued September 30, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant established that he sustained bilateral carpal tunnel syndrome and cubital tunnel syndrome while in the performance of duty.

On January 4, 1999 appellant, then a 41-year-old data transcriber, filed a claim for occupational disease, stating that he was initially aware that his overuse syndrome was caused or aggravated by his employment on November 23, 1998.¹

Appellant submitted a November 25, 1998 report from Dr. Bradley H. Kline, appellant's treating osteopath, reporting appellant's complaints of pain in left shoulder and arm with tingling and numbness in his left hand. Findings on examination included crepitation in the left elbow. Dr. Kline opined that appellant had overuse symptoms of the cervical spine, lateral epicondyle and wrist. He recommended rest and, if symptoms persisted, a magnetic resonance imaging scan. In reports dated December 7 and 12, 1998, Dr. Kline advised that appellant "seems to have a left medial epicondylitis, overuse, work-related, syndrome and cubital tunnel syndrome," or, in the alternative, impingement at the cervical spine, shoulder or wrist.

On January 6, 1999 the employing establishment noted that appellant was a part-time employee who worked 4 hours a day for 5 days a week for a total of 19.39 hours per week.

Dr. Kline continued to submit reports, and advised that appellant's last examination in September 1999 was "benign." In a report dated December 6, 1999, Dr. Manuel Vergara, Board-certified in psychiatry and neurology, stated that an electromyogram (EMG) and nerve conduction studies (NCS) revealed bilateral mild carpal tunnel syndrome, ulnar neuropathy of the left elbow and chronic right C7 radiculopathy.

¹ Appellant stopped work on November 23, 1998.

By letter dated October 28, 1999, the Office of Workers' Compensation Programs informed appellant of the type of evidence he needed to support his claim. On December 27, 1999 the Office accepted that appellant sustained employment-related left medial epicondylitis.

In a letter dated August 7, 2000, appellant, through counsel, requested that the Office expand his claim to include bilateral carpal and cubital tunnel syndrome. In support, appellant submitted a January 13, 2000 report from Dr. Shalom Abboudi, appellant's treating physician and a Board-certified orthopedic surgeon, who stated that appellant had a positive Tinel's sign at the ulnar nerve on the left and a negative Phalen's test bilaterally. He noted that there was not much evidence of carpal tunnel syndrome, but added that the neuritis of the left ulnar nerve required restricted movements. He advised appellant to return in six weeks and, if there were no signs of improvement by that time, surgery might be warranted. On February 22, 2000 Dr. Abboudi reported a negative Phalen's test and a negative Tinel's sign of the median and ulnar nerve bilaterally.

By letter dated May 22, 2001, the Office referred appellant to Dr. David Rubinfeld, a Board-certified orthopedic surgeon, together with medical records, a statement of accepted facts² and a list of specific questions for a second opinion medical examination. In a June 11, 2001 report, Dr. Rubinfeld stated that he had examined appellant on June 8, 2001, and advised that, based on physical and objective findings, his accepted work-related injury had resolved. He reported normal range of motion findings of both wrist and elbows, noting no pain in any movements. Dr. Rubinfeld also noted negative bilateral Phalen's tests and Tinel's signs. He opined that appellant did not have a medical condition caused by his employment and that he did not require any medical treatment. Dr. Rubinfeld stated that maximum medical improvement had been reached. In an accompanying work capacity evaluation dated June 10, 2001, he advised that appellant could work eight hours a day without restrictions.

By decision dated June 20, 2001, the Office denied appellant's claim on the grounds that the medical evidence failed to establish that appellant sustained employment-related bilateral carpal tunnel syndrome or cubital tunnel syndrome. The Office further noted that the accepted condition of medial epicondylitis showed no residuals.

On June 25, 2001 appellant, through counsel, requested an oral hearing. A hearing was held on December 11, 2001. By decision dated February 4, 2002, an Office hearing representative remanded the case to the Office to obtain a supplementary report from Dr. Rubinfeld to address whether appellant had carpal tunnel syndrome and/or cubital tunnel syndrome causally related to his employment. Further, the hearing representative noted that the statement of accepted facts should include appellant's part-time work schedule and keystroke requirements as well as listing other jobs "performed by the claimant both before and during the period of federal employment and note that this required the claimant to use a keyboard but not to the degree required by the postal service position."

² The statement of accepted facts noted that appellant was employed by the employing establishment as a data conversion operator on a transitional basis.

By letter dated May 14, 2002, the Office asked Dr. Rubinfeld to supplement his opinion based on an updated statement of accepted facts³ including appellant's work-related left medial epicondylitis and an updated list of questions. In a supplemental report dated June 12, 2002, Dr. Rubinfeld stated that appellant developed overuse syndrome of the cervical spine, and left lateral epicondylitis and left wrist as a result of repetitive use. He noted that "for years, prior to his employment at the postal service, [appellant] worked extensively with computers and keyboard. With this in mind, his repetitive use syndrome was the result of prior employment and not his part-time job with the postal service." Dr. Rubinfeld noted a December 1999 study which revealed bilateral mild carpal tunnel syndrome but noted February 2000 studies by Dr. Abboudi which were negative for carpal tunnel syndrome and ulnar nerve bilaterally. He then noted that his June 2001 evaluation found that appellant's physical findings did not support either carpal tunnel syndrome or cubital tunnel syndrome and that his overuse syndrome was not related to his federal employment.

In a decision dated June 19, 2002, the Office denied appellant's claim that bilateral carpal tunnel syndrome and cubital tunnel syndrome were employment related. By letter dated June 24, 2002, appellant, through counsel, requested an oral hearing. On January 23, 2003 a hearing was held. By decision dated April 4, 2003, an Office hearing representative affirmed the Office's June 19, 2002 decision.

The Board finds that appellant has not established that he sustained bilateral carpal tunnel syndrome or cubital 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; (2) a factual statement identifying the 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 was causally related to the employment factors identified by the claimant.⁴

The medical evidence required to establish a 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 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

³ In an amended statement of accepted facts, the Office noted appellant's part-time work hours and break schedule and stated that a listing of appellant's other jobs was attached. A list of appellant's other jobs was not included in the record before the Board.

⁴ *Donna L. Mims*, 53 ECAB ____ (Docket No. 01-1835, issued August 13, 2002).

nature of the relationship between the diagnosed condition and the specific factors identified by the claimant.⁵

In this case, the only evidence in support of appellant's claim for bilateral carpal tunnel syndrome and/or cubital tunnel syndrome is a December 6, 1999 report from Dr. Vergara who stated that an EMG and NCS revealed bilateral mild carpal tunnel syndrome. However, these reports contained no opinion regarding causal relationship.

In a June 12, 2002 supplemental report, Dr. Rubinfeld, a second opinion physician and a Board-certified orthopedic surgeon, noted that the December 1999 study revealed bilateral mild carpal tunnel syndrome. He also reviewed a February 2000 report which was negative regarding bilateral carpal tunnel syndrome and/or cubital tunnel syndrome. He also noted that his June 2001 evaluation found no evidence to support either carpal tunnel syndrome or cubital tunnel syndrome causally related to his federal employment.

None of the other medical opinions supported appellant's claim. Dr. Kline's reports did not provide a rationalized medical opinion supporting bilateral carpal tunnel syndrome and/or cubital tunnel syndrome. The Board has long held that the opinion of a physician supporting causal relationship may not be speculative or equivocal.⁶ Dr. Abboudi, a Board-certified orthopedic surgeon, noted essentially no evidence of carpal tunnel syndrome and reported in February 2000 a negative Phalen's test and a negative Tinel's sign of the median and ulnar nerve bilaterally. Therefore, the Board finds that the weight of the medical evidence rests with Dr. Rubinfeld's well-rationalized second opinion report, in which he noted that there was no medical documentation in the record to establish that appellant had either bilateral carpal tunnel syndrome and/or carpal tunnel syndrome.

⁵ *Allen C. Hundley*, 53 ECAB ____ (Docket No. 02-107, issued May 17, 2002).

⁶ *Ricky S. Storms*, 52 ECAB 349 (2001).

The April 4, 2003 and June 19, 2002 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
September 30, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member