

**United States Department of Labor
Employees' Compensation Appeals Board**

MERLE SPRANKLES, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Vista, CA, Employer**

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**Docket No. 04-492
Issued: April 8, 2004**

Appearances:
Merle Sprankles, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On December 16, 2003 appellant filed an appeal of a merit decision of the Office of Workers' Compensation Programs dated April 7, 2003. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant has established that she sustained causalgia, memocausalgia and reflex sympathetic dystrophy causally related to factors of her federal employment; and (2) whether appellant has established that she sustained a consequential injury.

FACTUAL HISTORY

On November 20, 2001 appellant, then a 50-year-old clerk, filed an occupational disease claim alleging that she sustained causalgia, memocausalgia and reflex sympathetic dystrophy due to "cold temperatures in the workplace." She did not stop work. In a statement accompanying the claim, an official with the employing establishment noted that temperatures in appellant's work location ranged from 72 to 78 degrees.

In response to the Office's request for additional information, appellant submitted a statement dated January 7, 2002, in which she described the employment factors to which she attributed her condition. She noted that she had previously undergone surgeries for bilateral carpal tunnel syndrome in 1994, under Office claim number A13-086425. Appellant related that subsequent to her surgeries she became sensitive to temperature extremes. She stated that her physician restricted her from working in temperatures outside 68 to 72 degrees, but that the employing establishment did not accommodate these restrictions. Appellant related that she initially filed the current claim as a recurrence of disability, but that the Office informed her to file an occupational disease claim.

By decision dated February 22, 2002, the Office denied appellant's claim on the grounds that she had not established a medical condition causally related to factors of her federal employment.

On March 22, 2002 appellant requested a hearing before an Office hearing representative.

In a report dated October 23, 2001, received by the Office on April 19, 2002, Dr. Byron F. King, a Board-certified orthopedic surgeon and appellant's attending physician, noted that he had treated her since 1994 for bilateral carpal tunnel syndrome and overuse syndrome. He described appellant's history of carpal tunnel release surgeries in 1994, with a subsequent intolerance to cold. Dr. King opined that appellant should work with temperature restrictions between 70 and 75 degrees. He stated:

"[Appellant] describes increased discomfort in the hands, wrists and upper extremities with exposure to cold and her clinical evaluation indicates a form of causalgia or memocausalgia, which is a milder form of reflex sympathetic dystrophy. This is felt to be an autonomic nervous system dysfunction with involvement of the portion of the nervous system that controls temperature to the extremities."

Dr. King noted that appellant's "intolerance to cold has been consistent and commented on by physicians and physical therapist alike." He stated:

"Regarding causation, it has been noted that a certain percentage of patients developing compression neuropathy such as carpal tunnel syndrome will also develop a reflex dystrophy type problem following corrective surgery.

"The more severe forms result in a distal extremity vasculitis, while the more minor forms are referred to as causalgia or memocausalgia. I would certainly consider [appellant] to be in the causalgia/memocausalgia level.

"The presence of this condition is directly related to her development of bilateral carpal tunnel syndrome and an overuse syndrome in the upper extremities and the subsequent surgical treatment provided."

In a report dated January 31, 2003, Dr. King noted that, appellant related that the employing establishment could no longer accommodate her temperature restrictions. He opined

that his temperature restrictions for her remained unchanged and stated that, “[d]ue to her neurological condition, adherence to these restrictions are mandatory.”

At the hearing, held on February 6, 2003 appellant related that following her 1994 wrist surgeries she experienced problems with her hands upon exposure to cold temperatures. She noted that the temperature at work was fine until 1996, when she moved into a new office which had heating and air conditioning problems the subsequent year. Appellant stated that she missed four weeks of work in 1998 and that, when she returned in January 1999, the employing establishment accommodated her restrictions.

Appellant submitted additional factual and medical evidence at the hearing, including duty status reports and a medical report from Dr. King documenting her temperature restrictions and physical therapy reports noting her intolerance to cold. She further submitted numerous statements from coworkers who described the cold temperatures in her work location.¹

In a letter dated March 3, 2003, an official with the employing establishment reiterating that the average temperature in appellant’s work location was 72 to 78 degrees. She submitted a response to the employing establishment’s March 3, 2003 letter, in which she argued that the temperature in her worksite was below 70 degrees during her first three hours at work. She further stated: “I would like to add that not only are my symptoms exacerbated by the temperatures at work, but they are always present to some degree. This is not just an injury caused by conditions at work, but it is also consequential to my carpal tunnel injury...”

In support of her contention that she was exposed to cold temperatures at work, appellant submitted documentation from the private contractor who serviced the heating and air conditioning at her worksite. In a November 28, 1999 report, a service contractor noted that 2 units had iced over because the temperature was set at 66 degrees.

By decision dated April 7, 2003, the hearing representative affirmed the Office’s February 22, 2002 decision. The hearing representative noted that Dr. King’s reports did not support that appellant sustained a diagnosed condition due to cold temperatures as he attributed her condition to her carpal tunnel syndrome.

LEGAL PRECEDENT -- ISSUE 1

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 diagnosed condition is causally related to the employment factors identified by the claimant.² The medical opinion must be one of reasonable medical certainty and must be supported by

¹ Appellant further submitted an internal office memorandum dated October 8, 1999, in which a claims examiner noted that she was claiming “a recurrence/new injury due to the cold at work. I agree that it looks like it should be paid.”

² *Arturo A. Adame*, 49 ECAB 421 (1998).

medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.³

ANALYSIS -- ISSUE 1

In this case, appellant attributed her causalgia, memocausalgia and reflex sympathetic dystrophy to exposure to cold temperatures at work. While the employing establishment indicated that temperatures at appellant's worksite ranged from 72 to 78 degrees, she has submitted a service contractor's report that notes that 2 units had iced over due to a thermostat set at 66 degrees. Thus, appellant has established that, at least on 1 occasion, she was exposed to temperatures at work below 72 degrees.

However, appellant has submitted no medical evidence supporting that she sustained a diagnosed condition due to exposure to cold temperatures at work. In a medical report dated October 23, 2001, Dr. King diagnosed causalgia/memocausalgia, which he attributed to appellant's bilateral carpal tunnel syndrome, overuse syndrome and her subsequent surgeries for carpal tunnel syndrome. He found that appellant should work in an environment with temperatures between 70 and 75 degrees. As Dr. King did not find that the diagnosed conditions of causalgia/memocausalgia resulted from the employment factors identified by appellant as causing her condition, exposure to cold temperatures at work, his opinion is insufficient to meet her burden of proof. The record is devoid of other medical evidence addressing causation. The Office, therefore, properly denied appellant's claim for an occupational disease.

LEGAL PRECEDENT -- ISSUE 2

It is an accepted principle of workers' compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee's own intentional conduct.⁴ As is noted by Larson in his treatise on workers' compensation, once the work-connected character of any injury has been established, the subsequent progression of that condition remains compensable so long as the worsening is not shown to have been produced by an independent nonindustrial cause and so long as it is clear that the real operative factor is the progression of the compensable injury, associated with an exertion that, in itself, would not be unreasonable under the circumstances.⁵

ANALYSIS -- ISSUE 2

The Board finds that the Office has not properly developed appellant's claim for a consequential injury. Appellant noted that she originally filed her claim as a recurrence of disability of her carpal tunnel claim, but that the Office instructed her to file an occupational disease claim. In a letter received by the Office on March 19, 2003, she argued that she had

³ *Solomon Polen*, 51 ECAB 341 (2000); *see also Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Carlos A. Marrero*, 50 ECAB 117, 120 (1998); *Clement Jay After Buffalo*, 45 ECAB 707, 715 (1994).

⁵ A. Larson, *The Law of Workers' Compensation* § 10.02 (2000).

sustained a consequential injury due to her accepted carpal tunnel syndrome. The medical evidence also supports that appellant may have sustained a consequential injury due to her carpal tunnel syndrome. In a report dated October 23, 2001, Dr. King discussed his treatment of appellant for carpal tunnel syndrome and overuse syndrome beginning in 1994. He noted that she had a history of bilateral surgeries for carpal tunnel syndrome in 1994 and that following her surgeries she was intolerant to cold. Dr. King diagnosed causalgia or memocausalgia by history and clinical evaluation and restricted appellant to working in areas with temperatures between 70 and 75 degrees. He opined that her causalgia or memocausalgia was “directly related” to her carpal tunnel syndrome and subsequent surgeries.

Proceedings under the Act are not adversarial in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.⁶ In this case, appellant has submitted sufficient uncontroverted medical evidence sufficient to further development of the case record by the Office on the issue of whether she sustained a consequential injury of causalgia or memocausalgia due to an accepted condition of bilateral carpal tunnel syndrome.⁷

The case, therefore, is remanded for the Office to assemble the relevant factual and medical information, including the complete case record associated with appellant’s claim for bilateral carpal tunnel syndrome. After such further development as is deemed necessary, the Office shall issue a *de novo* decision.

⁶ *William J. Cantrell*, 34 ECAB 1223 (1983).

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

CONCLUSION

The Board finds that appellant has not established that she sustained causalgia, memocausalgia and reflex sympathetic dystrophy causally related to factors of her federal employment. The Board further finds that the case is not in posture for decision on the issue of whether appellant sustained a consequential injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 7, 2003 is affirmed and the case is remanded for further proceedings consistent with this opinion by the Board.

Issued: April 8, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member